

THE TASK FORCE TO EXPAND ACCESS TO CIVIL LEGAL SERVICES IN NEW YORK

REPORT TO THE CHIEF JUDGE OF THE STATE OF NEW YORK



NOVEMBER 2010



TASK FORCE TO EXPAND ACCESS TO CIVIL LEGAL SERVICES IN NEW YORK

November 23, 2010

Honorable Jonathan Lippman
Chief Judge of the State of New York
230 Park Avenue, Suite 826
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Dear Chief Judge Lippman:

On behalf of the Task Force to Expand Access to Civil Legal Services in New York, I am pleased to forward our Report for your consideration. Your initial charge to the Task Force was to assist in the preparation for your four public hearings on civil legal services held to assess the extent and nature of the current unmet civil legal needs of low-income New Yorkers throughout the State and to identify the level of public resources necessary to meet that need. Our Report includes the Task Force's findings and recommendations based on the testimony, provided both orally and in writing, at the four hearings and on additional research undertaken and data collected by the Task Force.

The Task Force was inspired in its work by your unequivocal commitment to the need to provide civil legal assistance to the most vulnerable low-income New Yorkers in matters that involve the very basic necessities of life and by your determination to bring us closer to the ideal of ensuring equal access to justice.

You appointed members to the Task Force representing many diverse perspectives, each of whom brought a breadth of experience, special insights and a combined vision to think "outside the box." The Report is unanimously supported by all the dedicated members of the Task Force, who worked exceedingly diligently over a very compressed period of time, ably assisted by the Task Force's Counsel Marcia Levy and Mary Mone from your office.

The Task Force looks forward to continuing its work in the coming year to fulfill our broad mission, including recommendations to improve the efficiency and effectiveness of the delivery of civil legal services.

Respectfully submitted,

A handwritten signature in dark ink, reading "Helaine M. Barnett".

Helaine M. Barnett
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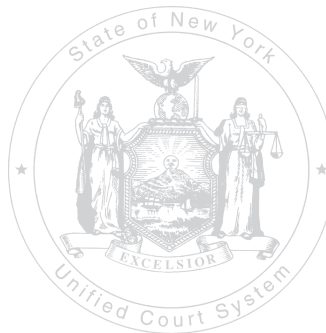
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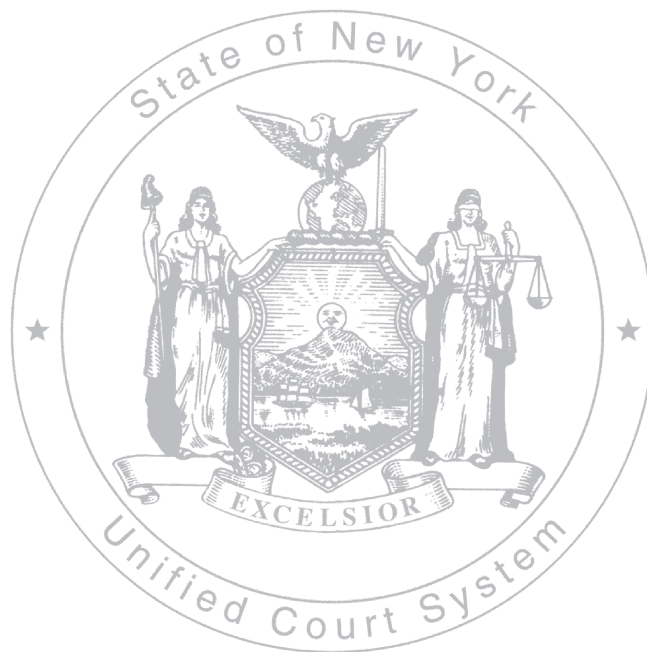


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**NOTE: Appendices can be viewed on the Task Force’s website,
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EXECUTIVE SUMMARY

There is a growing crisis in the Courts of New York State. Each year, more than 2.3 million New Yorkers try to navigate the State's complex civil justice system without a lawyer. The current statistics are staggering, to cite a few:

- 99 percent of tenants are unrepresented in eviction cases in New York City, and 98 percent are unrepresented outside of the City.
- 99 percent of borrowers are unrepresented in hundreds of thousands of consumer credit cases filed each year in New York City.
- 97 percent of parents are unrepresented in child support matters in New York City, and 95 percent are unrepresented in the rest of the State; and
- 44 percent of home owners are unrepresented in foreclosure cases throughout our State.

Seventy percent of civil matters in New York State courts involve family law, consumer credit, landlord-tenant and foreclosure cases. Our courtrooms often are standing room only, with frightened, unrepresented litigants who face the loss of a home, a job, and even a child. Judges report that many valid claims are lost, because the unrepresented often do not present evidence or understand the law.

As a result of the deep recession, which has increased the number of children and adults living in poverty in the Empire State, this crisis of the unrepresented has reached a breaking point. Judges report a substantial increase in the number of unrepresented litigants who have recently become low income. At the same time, funding for civil legal services has declined dramatically, with the Interest on Lawyers Account Fund of New York State ("IOLA") — a critical source of funding — falling with interest rates from close to \$32 million annually to less than \$8 million (40 cents per person) in a State with nearly 20 million people.

This crisis of the unrepresented adversely impacts everyone in our State, from the strongest financial institution to the most vulnerable child. For those on the other side of the unrepresented — landlords, banks, and other businesses — litigation and other costs are higher, and the opportunity to avoid disputes through mediation and settlement often is lost. Because Judges and court personnel must spend tens of thousands of hours trying to assist the unrepresented in navigating our complex court system, our courts have become less efficient, and the quality of justice has suffered for every New Yorker, including in cases between represented parties.

And, the State's economy loses literally hundreds of millions of dollars — conservatively estimated at more than \$400 million each year — because unrepresented New Yorkers lose their right to obtain federal funds, from disability payments to veterans benefits, and the State and local governments — and, ultimately, taxpayers — must step into the breach, by spending greater funds, including to combat homelessness, domestic violence, and poverty.

In order to begin to solve this crisis of the unrepresented, and to prevent it from overwhelming our

courts, Chief Judge Jonathan Lippman appointed this Task Force to Expand Access to Civil Legal Services in New York. The Chief Judge asked the Task Force, which includes Judges, lawyers, business executives, and labor leaders, from all parts of our State and representing differing political viewpoints, to come up with common sense, cost-effective solutions to what is an extremely serious crisis facing our courts.

In preparing our recommendations, the Task Force fully recognizes that these are tight budgetary times, and we strongly believe that our recommendations will have a positive, net economic impact on New York State by (i) improving the efficiency and effectiveness of our courts for every New Yorker, (ii) reducing the amount of litigation by the unrepresented, (iii) increasing our State's share of federal funds, and (iv) reducing the costs incurred by the State and local governments (and, therefore, taxpayers) from homelessness, domestic violence, and poverty.

We do not propose that every low-income civil litigant in our State have a lawyer. Instead, we here propose some modest, incremental reforms that will benefit all New Yorkers, by beginning to address the crisis of the unrepresented in our courts. Over the coming year, the Task Force will evaluate other reforms to benefit all litigants and potential litigants in New York State, including the increased use of mediation, alternative dispute resolution, technology, and simplified forms and rules in family law, consumer credit, landlord-tenant, and foreclosure cases.

This crisis of the unrepresented will not be solved in a year or even five years. The root causes of the crisis go far beyond the competence of our legal system, and many of the disputes presently flooding our courts can and should be resolved short of formal litigation. We believe that the Task Force's recommendations ultimately should result in less litigation, not more.

The Legislature has asked the Chief Judge to submit recommendations to address this need for civil legal assistance, and this Report is submitted to the Chief Judge to assist him in doing so. As set forth in this Report, the Task Force makes the following key findings:

Finding 1: *The substantial number of unrepresented litigants in civil legal matters adversely impacts the quality of justice for all parties in the Courts of New York State, increases the amount of litigation, and undermines the rule of law.*

Finding 2: *Providing civil legal assistance increases federal benefit payments for low-income New Yorkers, and reduces the need for State and local government assistance payments.*

Finding 3: *The unmet need for civil legal assistance in New York State is profoundly impacting vulnerable New Yorkers and costing taxpayers millions of dollars by increasing homelessness, failing to prevent domestic violence, and increasing poverty.*

Finding 4: *In these difficult economic times, current funding is inadequate to meet the critical need for civil legal assistance in our State of nearly 20 million people.*

These findings are based on an extensive record of evidence gathered by the Task Force summarized below.

The Chief Judge's Hearings: Taking a new approach to analyzing the civil legal needs of low-income New Yorkers, the Chief Judge conducted judicial hearings in each of the four Judicial Departments of the State, including focusing on the negative impact that unrepresented New Yorkers have on the courts and on represented parties. Chief Judge Lippman was joined by the Chief Administrative Judge, the Presiding Justices of each of the four Judicial Departments at the hearings in their individual Departments, and the leadership of the New York State Bar Association.

Unprecedented Unanimous Testimony: Testimony and statements from a broad array of 97 witnesses, with differing backgrounds, at the Chief Judge's hearings in all four Judicial Departments of the State identified an immediate need for additional resources to expand the availability of civil legal services for low-income New Yorkers in our State. This testimony reflected an unprecedented unanimity among business leaders, private and public residential property owners, bankers, local government officials, District Attorneys, labor leaders, medical providers, educators, providers of domestic violence prevention services, religious leaders, and Judges as well as clients.

The Work of the Task Force: In addition to working with the Chief Judge to prepare these hearings, the Task Force undertook the following initiatives: (i) a Statewide civil legal needs study of low income New Yorkers; (ii) a review of court data generated by the Office of Court Administration concerning New Yorkers without civil legal representation; (iii) a survey of front-line Judges across the State regarding the extent that the lack of legal assistance affects the administration of justice on a day-to-day basis; (iv) a survey of legal services organizations across the State about how the continuing severe economic downturn has affected the demand for their services; and (v) an analysis of cost-benefit and cost-savings data from IOLA, the independent entity that provides funding to the network of core civil legal services providers throughout New York.

Civil Legal Assistance Can Reduce Court and Litigation Costs: The evidence presented at the Chief Judge's hearings confirmed that many matters can be kept out of court if civil legal assistance is provided *before* a legal problem escalates into a court case, thereby reducing litigation costs for the courts, private businesses, and local governments. When cases do end up in court, the increasing number of unrepresented low-income New Yorkers is having a significant negative impact on the efficiency and effectiveness of court operations and increases costs for represented parties when cases are delayed and litigation is protracted.

Civil Legal Assistance Provides Substantial Economic Benefits to New York State and Cost Savings for State and Local Governments and Taxpayers: At the same time, the Chief Judge's hearings and the Task Force have developed evidence documenting that the provision of civil legal services brings federal dollars back to New York in the form of direct federal benefit payments to clients (\$321 million) and saves State and local governments tax expenditures (\$100 million), for example, by replacing State and local benefits with federal benefits and preventing evictions and homelessness. Using the United States Department of Commerce's economic impact multiplier, IOLA has also calculated that the provision of civil legal assistance to obtain benefits for clients provides an additional economic benefit to the New York economy into the hundreds of millions of dollars.

Evidence Shows a Substantial Unmet Need for Civil Legal Assistance Across Our State: Based on the data gathered by the Task Force and the evidence presented at all four of the Chief Judge’s hearings, the Task Force finds that there is a widening gap between the need for civil legal assistance and available civil legal services for low-income New Yorkers in every part of the State.

According to new Office of Court Administration data, more than 2.3 million New Yorkers are unrepresented in civil legal proceedings in New York State courts. Most are unrepresented not by choice and most are low-income New Yorkers. This court data does not include the more than 1,250 Town and Village Courts. The Task Force’s survey of the direct observations of front-line Judges as well as the testimony of Judges at the Chief Judge’s hearings also found that the number of unrepresented New Yorkers is growing. While testimony from business leaders, Judges, local government officials, and community leaders established that providing preventive legal assistance could reduce significantly the number of cases filed in court, the large number of unrepresented New Yorkers attempting to navigate our courts confirms the substantial unmet need for civil legal assistance. Indeed, the Task Force’s legal needs study found that nearly 3 million low-income New Yorkers experienced a civil legal problem and 1.2 million experienced three or more civil legal problems. By contrast, IOLA-funded civil legal services providers handle only about 260,000 legal matters each year. Thus, there clearly is a substantial shortfall in the provision of civil legal services in our State, and providers are at best meeting 20 percent of the need because of lack of resources.

The Task Force recognizes the extensive *pro bono* efforts of the private bar that have been conservatively calculated to be more than 2 million hours annually. But the evidence before the Task Force shows that increased *pro bono* assistance alone cannot begin to address the growing crisis of the unrepresented in our courts.

Initial Recommendations: To address the crisis of the unrepresented in our courts, the Task Force recommends that the State establish a modest and reliable source of funding for civil legal services. In these tight budgetary times, such funding will be cost effective. As described in this Report, the provision of civil legal services reduces the costs of litigation, increases court efficiency, and saves taxpayers millions of dollars. In addition, in recommending additional funding, the Task Force is proposing specific reforms to make the delivery of client services more accountable, effective, and efficient.

In order to develop a realistic and viable funding recommendation, the Task Force has examined the data reflecting the number of eligible persons who contact legal services providers for help and then are turned away because of lack of resources. The federal Legal Services Corporation (LSC) relies on turn-away data to assess unmet civil legal needs nationally. In 2009, IOLA determined that legal services providers must turn away one out of every two eligible low-income New Yorkers who seek their assistance. Since January 2010, providers report that this turn-away rate has increased substantially. In any event, like LSC, the Task Force believes that turn-away data significantly undercounts the number of low-income New Yorkers in need of civil legal assistance, because this turn-away data does not reflect low-income New Yorkers who are unaware of their legal rights and/or do not know that they can seek help from a civil legal services provider.

Notwithstanding these limitations, the Task Force concludes that this one-to-one turn-away data provides a fiscally responsible starting point to begin to address the crisis of the unrepresented in our courts. Accordingly, as an initial step, the Task Force recommends a plan to start to reduce the number of low-income New Yorkers who are turned away from civil legal services providers. Taking into account the current fiscal realities, the Task Force recommends a four-year plan to increase by half the current overall \$208 million funding level for civil legal assistance in our State. This existing funding consists of an unstable combination of federal, State, local and private awards and contributions. To accomplish this goal of reducing the number of low-income New Yorkers who are turned away by increasing the current funding by half, the Task Force recommends allocating \$25 million in new civil legal services funding in the Judiciary's April 1, 2011 — March 31, 2012 budget and then increasing that allocation each year so that this funding reaches an annual allocation of \$100 million in the fourth year. This new funding is intended to be in addition to current funding for civil legal assistance in New York State. The Task Force also recommends that the Judiciary continue its \$15 million rescue funding for IOLA in order to address in part the loss in IOLA revenue caused by historically low interest rates.

Use Of These Additional Resources: The Task Force recommends that this new funding be targeted to providing legal assistance to address the “essentials of life”: (i) housing (including evictions, foreclosures, and homelessness); (ii) family matters (including domestic violence, children, and family stability); (iii) access to health care and education; and (iv) subsistence income (including wages, disability and other benefits, and consumer debts).

The Task Force finds that the most vulnerable New Yorkers in need of civil legal aid include both those living below the federal poverty level (\$22,050 for a family of four) and those living below 200 percent of the federal poverty level (\$44,100 for a family of four). Therefore, these additional funds should be focused on providing civil legal assistance to those living in poverty and the “working poor” living just above the poverty level but below 200 percent of that level.

The Task Force further recommends that these funds be provided to legal services providers that have staff with the requisite training, knowledge, and experience to resolve client problems in the most effective and efficient manner.

Allocation Mechanism: To ensure that the additional resources can be allocated quickly to help additional low-income New Yorkers, the Task Force recommends that this funding be distributed, at least for this first year of the four-year plan, through the IOLA Fund's grant-making process, which will eliminate new administrative expenses or start-up time. Based on the evidence before it, the Task Force also recommends that these additional funds be allocated throughout the State — in urban, suburban, and rural areas — in accordance with a poor persons distribution similar to that which LSC uses.

The Task Force recommends the establishment of an Oversight Board to oversee the requests for proposals and the decision-making process for the allocation of this additional funding. This Board should consist of the Chief Administrative Judge of the Courts (or other designee of the Chief Judge), the Chair of the Chief Judge's Task Force, and the Chair of the IOLA Board.

Accountability and Efficiency: As a condition of this new funding, the Task Force recommends that additional mechanisms be put in place to evaluate the cost-effectiveness of client services and civil legal services delivery systems. The Task Force will work with the Oversight Board during this first year of the plan to implement such an additional evaluation process.

Additional Reforms: Beyond proposing limited, new funding, the Task Force believes that substantial reforms are necessary to improve the delivery system for civil legal services in New York State. Over the next year, we will make recommendations to the Chief Judge in multiple areas.

First, the Task Force believes that preventive services and early intervention will improve the effectiveness and efficiency of the delivery of civil legal services.

Second, we will investigate the enhanced use of technology, the expanded provision of “know your rights” community legal education, the increased use of supervised non-lawyer advocates, and partnerships and collaborations with non-legal entities that provide services to clients, including social services agencies, medical providers, schools, and community-based organizations.

Third, the Task Force will continue to emphasize the leveraging of resources through private *pro bono* efforts. The Task Force also will examine improving collaboration among providers to avoid duplication of effort and minimize costs, including initiatives to share costs.

Fourth, the Task Force will identify opportunities for the increased use of mediation, alternative dispute resolution initiatives and the simplification of the legal process for the benefit of all litigants, including low-income New Yorkers, and our judicial system as a whole. Simplification of forms and procedures for all litigants, particularly in family law, consumer credit, landlord-tenant and foreclosure matters, and increased community legal education by providers can reduce the number of low-income New Yorkers who seek legal assistance from providers, thereby achieving better outcomes for New Yorkers and further controlling costs.



In making these recommendations, the Task Force strongly agrees with the many witnesses at the Chief Judge’s hearings, including Judges, local government officials, and business leaders, that the growing crisis of the unrepresented threatens to overwhelm our State courts. As demonstrated in this Report, providing modest, additional funding for civil legal assistance will substantially benefit represented private parties, governmental litigants and taxpayers, and improve the efficiency and effectiveness of our courts. Beyond this, such funding is essential to ensure that the most vulnerable New Yorkers are not left without civil legal assistance — and often without hope — when they face legal problems involving the “essentials of life,” including the loss of a home, a job, or even a child, and thereby moving us closer to the goal of equal access to justice in the Empire State.

I. OVERVIEW

The Chief Judge's Civil Legal Services Initiative

As Chief Judge, I see this as one of the great challenges facing our justice system today. No issue is more fundamental to our constitutional mandate of providing equal justice under law than ensuring adequate legal representation. . . . [T]o meet our constitutional and ethical mandates, the Judiciary of this State is determined to bring us closer to the ideal of equal access to civil justice. . . . [I]t is my fervent hope, first, that it will be an obvious truth *to all* that those litigants faced with losing the roof over their heads, suffering the breakup of their families, or having their very livelihood threatened cannot meaningfully pursue their rights in the courts of New York *without legal counsel* — and second, that it will be equally obvious that we together will have taken major steps forward in providing such representation to those who need it most, *making equal justice for all not just an ideal, but truly a reality in our great State*.

— **Chief Judge Jonathan Lippman**, Law Day, May 3, 2010 at 3, 7 (emphasis in the original).¹

With this clarion call to action, the Chief Judge launched a Statewide, multi-faceted initiative to provide adequate legal assistance for low-income New Yorkers in civil legal matters that involve fundamental human needs.

The current deep economic downturn has clearly increased the need for civil legal services. Recently released federal poverty data shows that the number of children and adults living at 200 percent of the federal poverty level or below in New York State has increased from 5.6 million in 2008 to 6.3 million in 2009.² At the same time, the economic downturn has diminished available funds for these crucial services. Most notably, the Interest On Lawyers Account Fund of New York State (IOLA) — a critical funding source for providers of core civil legal services in every area of the State — has eroded from an amount close to \$32 million annually to less than \$8 million due to the drop in interest rates. Recognizing the damage from the loss of these funds, in the current State fiscal year 2010–2011, the Judiciary budget approved by the Legislature and the Governor allocated \$15 million to IOLA as a partial offset to the dramatic reduction in available IOLA funding — but, as the evidence presented in this Report shows, that stopgap allocation was clearly not enough.

The Task Force: As a centerpiece to the effort to establish a comprehensive approach to providing legal assistance to low-income New Yorkers in civil legal matters, the Chief Judge convened the Task Force to Expand Access to Civil Legal Services in New York. The Chief Judge charged the Task Force with assisting him in organizing the first ever Judiciary hearings in all four Judicial Departments of the State to evaluate the unmet need for civil legal assistance. The Chief Judge further charged the Task Force with preparing this Report and issuing recommendations for immediate steps to make access to justice in civil legal matters a priority, especially in these difficult economic times.³

The Chief Judge also charged the Task Force with the responsibility of continuing to make annual reports and carrying out an ongoing, broad-based mission of recommending Statewide civil legal services priorities, defining the types of legal matters in which civil legal services are most needed, proposing eligibility standards, helping improve the efficiency and effectiveness of the delivery of legal services,

gathering and distributing information about programs, strategies, and technological approaches that have proven successful, and issuing guidelines or best practices for the most effective delivery of civil legal assistance.

The Task Force is headed by Helaine M. Barnett, the former President of the federal Legal Services Corporation and the former Attorney-in-Charge of the Civil Practice of The Legal Aid Society in New York City. Working closely with the Hon. Judge Fern A. Fisher, the Deputy Chief Administrative Judge for New York City Courts and the Statewide Director of the Unified Court System's Access to Justice Program, the Task Force includes Statewide representatives from the courts, civil legal services and *pro bono* providers, bar associations, private law firms, government, law schools, the business community, and civil legal services funders.⁴

The State Legislature's Resolution: In recognition of this historic effort, both houses of the New York State Legislature passed a resolution in June 2010 commending the Chief Judge on this civil legal services initiative. The Assembly and the Senate resolved that “. . . the fair administration of justice requires that every person who must use the courts have access to adequate legal representation.” To further that goal, both houses requested that the Chief Judge report annually to the Governor and the Legislature concerning the findings of the Statewide hearings and the work of the Task Force. In particular, in the resolutions, the Legislature asked the Chief Judge to submit recommendations to address gaps in available resources to meet the need for civil legal services in the State of New York.⁵

The Chief Judge's Hearings: The Chief Judge presided over a series of Judiciary public hearings on civil legal services, held in all four Judicial Departments. At the Chief Judge's direction, the hearings were conducted to develop both oral and written evidence on the unmet need for civil legal assistance across the State and receive recommendations for action to bridge the widening gap in access to justice in civil matters.

Joining the Chief Judge in conducting these four hearings were Chief Administrative Judge Ann Pfau and the Presiding Justice of each Department in which the particular hearing was held: Presiding Justice Luis A. Gonzalez in the First Department, Presiding Justice A. Gail Prudenti in the Second Department, Presiding Justice Anthony V. Cardona in the Third Department, and Presiding Justice Henry J. Scudder in the Fourth Department. Each panel also included a leader of the New York State Bar Association: President Steven Younger, President-elect Vincent Doyle, or former President Kathryn Grant Madigan.⁶

The hearings represented an unprecedented partnership of the leadership of the Judiciary and the leadership of the legal profession to focus on the urgent problem of the growing unmet need for civil legal assistance for low-income New Yorkers, which has been exacerbated during the continuing severe economic downturn. The Chief Judge has committed to conduct these hearings on an annual basis to continue to hear first hand about the extent of the civil legal needs of low-income New Yorkers.

At the Chief Judge's request, the Task Force published notice of the hearings in the *New York Law Journal* and on the Unified Court System's website.⁷

During the hearings themselves, the Chief Judge set forth the core concerns at issue:

[N]o issue is more fundamental to the Court's constitutional mission than ensuring equal justice for all. The availability of affordable legal representation for low-income New Yorkers is indispensable to our ability to carry out this mission It is particularly critical because of what has happened in our economy in the very, very recent past. The economic collapse in this city, state and country has had a dramatic effect on the people who appear in our courts. The most vulnerable among them [are affected], the poor, the elderly, struggling families, the disabled, victims of domestic abuse. There's been a tremendous rise in foreclosures, evictions, debt cases, family offenses, and matrimonial conflict. When dealing with the very necessities of life, the roof over people's heads, their livelihood, the well-being of themselves and their families, there can be no doubt certainly in my mind that they need to have an attorney in order to navigate the courts and in order to navigate all the different entities, health, educational, the different services that we provide as a society.⁸

Ground-breaking Testimony from Business Leaders, Judges, and Community Leaders: Given the crisis of the unrepresented in the Empire State, and the growing gap in available resources to meet the increasing need for civil legal aid, the Chief Judge's hearings in each Judicial Department received testimony from a broad array of New York leaders who described the critical need for civil legal assistance.

Business leaders, including representatives of both private and public property owners and the banking industry, presented clear testimony about the adverse impact on represented parties that results when unrepresented parties require repeated adjournments and cannot present or resolve their cases that otherwise could be resolved by counsel without the need for protracted litigation. The business leaders who provided testimony included: Kathryn S. Wylde (President and CEO of the Partnership for New York City); Michael S. Helfer (General Counsel of Citigroup); Michael P. Smith (President and CEO of the New York State Bankers Association); Joseph Strasburg (President of the Rent Stabilization Association); Kenneth E. Raske (President and CEO of the Greater New York Hospital Association); and Steven T. Longo (Executive Director of the Albany Housing Authority).

Similarly, front-line Judges in every Judicial Department in the State described how each day extra court time is expended unnecessarily when parties appear without representation. The Judges further testified that the lack of counsel undermines the Judiciary's core function of serving as a neutral arbiter of disputes when Judges struggle to help vulnerable unrepresented litigants.

Both representatives of the business community and Judges testified that the provision of legal assistance at an early stage would in many instances avert the need to commence litigation in the first place. Indeed, the lack of civil legal aid is having an adverse impact on the bottom line for represented private and governmental parties as well as on judicial resources.

Local government officials — New York City Council Speaker Christine Quinn, Albany County Executive Michael G. Breslin, Rochester Corporation Counsel Thomas S. Richards (also the former CEO of Rochester Gas and Electric), and Suffolk County Attorney Christine Malafi — also testified about the cost savings to State and local governments resulting from the provision of civil legal assistance — particularly legal assistance to prevent wrongful evictions and foreclosures that lead to homelessness

and the expense of providing emergency shelter. They further testified about the key role that civil legal services play in stabilizing neighborhoods.

Testimony from two leading District Attorneys — Charles Hynes of Kings County and Kathleen B. Hogan of Warren County — also cautioned that the lack of available civil legal assistance undermines comprehensive assistance for crime victims, particularly survivors of domestic violence. They further testified that the lack of access to civil legal aid diminishes innovative programs to divert New Yorkers from the criminal justice system who have underlying civil legal needs — such as problems relating to housing and homelessness, lack of mental health services, and improper denials of employment and education assistance.

Leading educators — including the Superintendent of the Rochester City School District Jean Claude Brizard and the President of Monroe Community College Dr. Anne M. Kress — testified that civil legal assistance is very important to the education of children and young adults because without the provision of legal services to resolve a family’s legal problems their education is often disrupted, frequently with a permanent impact.

Likewise, physicians and medical providers described how in the absence of civil legal aid chronic health problems (such as asthma) can worsen until the cost of providing ongoing medical care to address the situation far exceeds the cost of providing legal assistance to resolve the matter (such as negotiating an agreement to remedy a housing condition that is an asthma trigger for a child). Helen Morik of the New York-Presbyterian Hospital — the largest provider of health care and the largest employer in New York City — stated that the stress attendant with legal problems associated with the essentials of life literally interferes with the ability of patients to get well.

Providers of domestic violence prevention services and other community leaders also testified about the dire consequences for vulnerable New Yorkers when civil legal assistance is lacking — and the resulting destabilizing impact on entire neighborhoods in combination with the destabilizing impact on individual families.

In addition, leaders of prominent labor unions in New York described how the need for civil legal assistance has been growing among their own rank and file members across the State because, despite having a job, many members still have a very low income. They identified foreclosures and consumer debt as the most pressing areas of need among their members who earn less than 200 percent of the federal poverty level. The labor leaders who provided testimony were: Denis M. Hughes (President, New York State AFL-CIO); Denise Berkley (Statewide Secretary, Civil Service Employees Association); Julie Kushner (Director of the United Auto Workers Region 9A); George Gresham (President, 1199 SEIU); and Patricia Bentley (Board of Directors, New York State United Teachers).

The Task Force’s New Surveys and Data Analysis: In addition to the in-depth testimony received at the hearings, in an effort to have the most comprehensive analysis of the need for civil legal assistance for low-income New Yorkers, the Task Force undertook the following initiatives: (i) a Statewide civil legal needs study of low income New Yorkers; (ii) a review of court data generated by the Office of Court

Administration concerning New Yorkers without civil legal representation; (iii) a survey of front-line Judges across the State regarding the extent that the lack of legal assistance affects the administration of justice on a day-to-day basis; (iv) a survey of legal services organizations across the State about how the continuing severe economic downturn has affected the demand for their services; and (v) an analysis of cost-benefit and cost-savings data from IOLA, the independent entity that provides funding to the network of core civil legal services providers throughout New York.

As detailed in this Report, together with the testimony gathered from the Chief Judge's hearings, these initiatives document an unmet need for civil legal assistance for low-income New Yorkers that is growing significantly. In combination with the evidence presented at the Chief Judge's hearings, the Task Force's initiatives have also established that there are substantial economic benefits for individual New Yorkers and the local economy and cost savings for State and local governments resulting from investing in the provision of civil legal aid. In particular, the provision of civil legal services generates additional aid to New Yorkers from the federal government, which in turns saves the State and local governments money.

The following are the Task Force's five special initiatives:

The Civil Legal Needs Study: Under the auspices of the Fund for Modern Courts, the Task Force commissioned Lake Research Partners, a well-respected private research organization, to conduct a professional legal needs study of low-income residents across the State. This kind of study has not been conducted in New York in more than two decades.

The Task Force's study found that in every part of New York State — urban, suburban, or rural, in downstate, New York City, the eastern part of the State or the western part of the State — low-income families and individuals face significant civil legal problems. The survey polled a statistically valid sample of low-income New Yorkers, defined as persons living at or under 200 percent of the federal poverty guidelines, which means a family of four earning \$44,100 or less a year — often referred to as “the working poor.” Those surveyed were asked about specific legal problems, including housing, finances, employment, health insurance or medical bills, public benefits, domestic and family issues, immigration, and issues with schools affecting their households over the past year. Lawyers reviewed the list of problems to make sure that the questions covered actual disputes requiring legal advice or legal assistance.

When the representative population was presented with a list of specific legal problems, nearly half (47 percent) said they have experienced at least one of these problems. Applying this percentage to all New Yorkers who live at 200 percent of the federal poverty guidelines or below, this translates into almost *3 million low-income New Yorkers* who have had a legal problem. Within that number, 1.2 million low-income New Yorkers experienced three or more legal problems. The most significant legal problems are in the areas of health insurance or medical bills, followed by finances, employment, and housing.

Those low-income New Yorkers most in need of legal assistance are families with children under age 18, African Americans, Latinos, immigrants, unemployed New Yorkers, uninsured New Yorkers, and

New Yorkers with disabilities. Their problems are varied and include problems with employment (25 percent), health insurance or medical bills (25 percent), and public benefits (23 percent).

Sixty percent of low-income women under the age of 60 reported having at least one legal problem in the past year. Sixty percent of parents with children under the age of eighteen reported having at least one legal problem, with 27 percent reporting three or more problems. Fifty-eight percent of those households with a family member with disabilities reported having one or more legal problems, with 29 percent having three or more problems. Twenty-nine percent of unemployed New Yorkers surveyed reported three or more legal problems.

As described in the analysis of the legal needs study referenced later in this Report, whether due to fear, intimidation or lack of knowledge about what to do, many of these low-income New Yorkers simply did not seek legal help to address these legal problems.

Court Data: Through a special initiative, the Task Force obtained Court data showing that more than 2.3 million New Yorkers each year navigate the State’s civil justice system without legal assistance. Most are unrepresented not by choice and most are low-income New Yorkers. Many of these unrepresented New Yorkers have cases in fundamental areas such as housing and other civil disputes like family matters involving personal safety, employment, and subsistence income. This data does not even include the large number of unrepresented New Yorkers who appear in the more than 1,250 Town and Village Courts.

The Judges’ Survey: Confirming the overall Court data, the Task Force’s survey of front-line Judges in New York documented the day-to-day adverse impact the growing lack of representation in civil matters has on the courts and the administration of justice throughout the State.

The survey revealed the expenditure of significant judicial resources, including substantial time spent by both Judges and court personnel, in cases where there are unrepresented parties, and that these resources would be conserved if legal assistance was provided. The survey also established that parties with counsel are adversely affected when the opposing party is unrepresented because more court time and more court appearances are required. In addition, when parties appear without counsel the important role of the Judge as a neutral arbiter is increasingly difficult to maintain. Separate and apart from these survey findings, testimony by Judges at the Chief Judge’s hearings also described how unrepresented parties obtained less equitable outcomes.

The Providers’ Survey: The Task Force also conducted a survey of civil legal services providers across the State to further evaluate the civil legal needs of low-income New Yorkers and publicized the survey through notification in the *New York Law Journal*.⁹

For the period from January through September of this year, this new survey of core civil legal services providers revealed that 91 percent of the responses reported an increase in requests for assistance from formerly moderate income households and 90 percent reported an increase in unemployed individuals seeking assistance.

The survey further documented that 91 percent of the responses from civil legal services organizations reported increases since January 2010 in requests for assistance to stop foreclosures; 85 percent reported increases in requests for eviction prevention assistance; 81 percent reported increases in requests for consumer debt assistance; 78 percent reported increases in requests for bankruptcy assistance; and 67 percent reported increases in requests for domestic violence assistance.

As documented in this Report, even before the economic downturn and recent funding reductions, civil legal services providers were unable to meet the need for civil legal assistance. This crisis of the unrepresented has worsened in the midst of the continuing severe downturn when the need for civil legal help has been increasing. The Task Force's survey found that 57.7 percent of the provider responses reported staffing reductions because of decreased resources and therefore increasing numbers of low-income New Yorkers who could not be served.

Cost-Benefit and Cost-Savings Data: Data analyzed by the Task Force and evidence provided at the Chief Judge's hearings further established that the provision of civil legal assistance generates substantial economic activity in the local economy by bringing dollars back to New York from the federal government and saves money for State and local governments. In 2009, for example, some \$321 million in federal funds came to New Yorkers represented by civil legal services programs, including: \$154 million in Supplemental Security Income/Social Security Disability benefits; \$113 million in federal Medicaid dollars; \$21 million in earned income tax credits; and more than \$32 million in additional federal benefits such as Veterans benefits and Medicare. Bringing these federal benefits back to New York helps redress the imbalance between high levels of federal tax revenue generated from New York and lower levels of federal funding allocated to New York — quite apart from the positive impact for individual New Yorkers.

The United States Department of Commerce also estimates that each million dollars brought into the State from outside the State circulates through local economies 1.4836 times and supports 10.46 jobs.¹⁰ Applying this multiplier, the \$321 million in federal dollars brought into the State for civil legal services clients in 2009 led to an estimated additional \$475 million in economic activity in the form of spending and 5,000 jobs.

In addition to this economic activity attributable to the provision of civil legal services, hearing testimony from government officials and others highlighted cost savings to State and local governments by preventing evictions and foreclosures and thereby averting homelessness, by keeping families together and avoiding foster care placements, and by obtaining federal disability benefits and unemployment insurance in place of State and local public assistance benefits. Based on an analysis of data, the IOLA Fund has projected \$100 million in annual cost savings to State and local governments as a result of providing civil legal assistance, largely by preventing homelessness and providing assistance to survivors of domestic violence.

Thus, at current funding levels, the IOLA Fund has calculated that the overall economic impact on the New York economy from the provision of civil legal aid is nearly \$900 million. Based on the \$208 mil-

lion in current funding for civil legal services in New York State from all sources — federal, State, local, and private — this represents a return to New York of nearly \$5 for every \$1 spent to support civil legal services organizations.

The Task Force’s Key Findings: Based on all of the above and as documented below, the Task Force makes the following four core findings:

- Finding 1:** *The substantial number of unrepresented litigants in civil legal matters adversely impacts the quality of justice for all parties in the Courts of New York State, increases the amount of litigation, and undermines the rule of law.*
- Finding 2:** *Providing civil legal assistance increases federal benefit payments for low-income New Yorkers, and reduces the need for State and local government assistance payments.*
- Finding 3:** *The unmet need for civil legal assistance in New York State is profoundly impacting vulnerable New Yorkers and costing taxpayers millions of dollars by increasing homelessness, failing to prevent domestic violence, and increasing poverty.*
- Finding 4:** *In these difficult economic times, current funding is inadequate to meet the critical need for civil legal assistance in our State of nearly 20 million people.*

II. THE FINDINGS OF THE TASK FORCE

The Task Force makes the following findings based on: (1) the testimony of 68 witnesses from a broad range of perspectives at the Chief Judge’s four hearings in each Judicial Department of the State and 97 written submissions in response to the public notice of these hearings; and (2) the Task Force’s five initiatives — the legal needs study, the review of court data, the Judges’ survey, the providers’ survey, and the review of data from the IOLA Fund derived from the Fund’s independent oversight of civil legal services providers in New York.

Finding 1: *The substantial number of unrepresented litigants in civil legal matters adversely impacts the quality of justice for all parties in the Courts of New York State, increases the amount of litigation, and undermines the rule of law.*

Testimony by front-line Judges in each Judicial Department and business leaders, including representatives of both private and public property owners and the banking industry, described the adverse impact on the courts and on represented parties when unrepresented parties require repeated adjournments and cannot present or resolve their cases that otherwise could be resolved by legal assistance. Judges and judicial personnel must also spend substantial time on cases involving unrepresented New Yorkers that would otherwise be devoted to other cases. As a result, the entire judicial system slows down, including the handling of commercial cases and other matters. Representatives of the business community and Judges both testified that the provision of legal assistance at an early stage before matters are brought to court would have the beneficial impact of averting the need to commence litigation in many instances.

Judges also testified about the difficulty of having to remain neutral while unrepresented parties go up against able counsel and lose cases they should win because of their inability to introduce into evidence a decisive document or even ask the right question. Such situations are truly miscarriages of justice — all the more so when what is at stake is the loss of one’s home, access to health care, the ability to feed or clothe or educate one’s children, or the need to escape from domestic violence.

Judge Michael C. Conway, a village justice in the Village of Nassau in Rensselaer County, for example, testified that the overwhelming disparity between the many “unrepresented, under privileged, under educated [and] even illiterate litigants” and parties with experience and proper counsel gives those who cannot afford legal assistance an unfair and “obvious disadvantage.”¹¹

Emphasizing the vulnerability of unrepresented litigants appearing in eviction proceedings, the Hon. Henry J. Nowak, Buffalo Housing Court Judge, testified that research by the SUNY Buffalo Department of Family Medicine found that 27 percent of the individuals evicted in proceedings in his court had a documented mental illness, thereby demonstrating an even greater need for these individuals to have representation.¹² Describing the situation that confronts Judges across the State every day, the Hon. Eleanor Ofshtein, Kings County Housing Court Judge, said: “imagine your elderly grandmother coming into court, an immigrant, and barely speaking English”¹³

Adverse Impact on the Courts: Data presented by the Office of Court Administration reflects the growing dimensions of the current crisis and the increasingly high volume of cases that affect the day-to-day lives of low-income New Yorkers. Statewide, 70 percent of the civil matters in court involve family law or matrimonial cases, consumer credit, foreclosures and landlord-tenant matters.¹⁴

Dramatic increases in foreclosure filings from 2005 to 2009 exemplify the escalating pressures that the economic downturn has caused for New Yorkers and for the courts. For instance, Nassau County foreclosure filings increased 319 percent from 1,310 to 5,487; Suffolk County filings increased 274 percent from 2,016 to 7,531; Kings County filings increased 200 percent from 1,827 to 5,484; Westchester County filings increased 249 percent from 565 to 1,970; Dutchess County filings increased 281 percent from 276 to 1,052; and the Queens increase was 217 percent from 1,842 to 5,839.¹⁵

Foreclosures have continued to increase during 2010 as has the gap between the need for legal assistance in such cases and its availability. For example, in Queens approximately 5,000 foreclosure court conferences have been held in accordance with the new State law but only some 3,000 homeowners had representation at their conferences, and many of those homeowners did not have the ongoing representation needed to resolve their cases appropriately. Overall, since the new State law requiring these preliminary foreclosure conferences was first enacted two years ago, there have been over 75,000 conferences in the Second Department alone, and the numbers are growing throughout the State. The situation in Orange County is representative: there were 129 conferences in February 2010 and by September 2010 the number had increased to 750.¹⁶ However, even with modest special State legislative funding for foreclosure prevention services and the surge of *pro bono* assistance in combination with the efforts of not-for-profit legal service providers, across the State 44 percent of New Yorkers facing loss of their homes in foreclosures do not have legal representation.¹⁷

Consumer credit filings highlight an increased inability of New Yorkers to pay debts. This often starts a downward spiral of their lives — typically after the loss of employment — which then leads to other legal problems such as evictions and foreclosures. In these consumer credit cases, there is also a substantial gap in representation. For example, in the Civil Court of the City of New York, 241,594 consumer credit cases — which primarily involve credit card collection actions brought by companies that buy debt from creditors — were filed in 2009.¹⁸ Only approximately 1 percent of New Yorkers sued by companies in these cases had legal assistance, while 100 percent of the entities bringing the collection cases were represented by counsel.¹⁹ A recent Office of Court Administration five-day study revealed that there were 1,027 consumer credit cases on the Civil Court calendar in all five boroughs of New York City, but only 26 New Yorkers who were the subject of these cases had legal representation, and a small number received in-court-only assistance by a volunteer lawyer for the day.²⁰

From his vantage point on the front lines, the Hon. Jeffrey K. Oing, Supervising Judge, New York County Civil Court, testified that the consumer credit part is virtually standing room only every day and many individuals who appear in the part are economically disadvantaged, unable to speak English, frightened, and unaware of how to navigate the court system.²¹ Judge Oing added that:

[M]any times they come into court, they're scared, they're frightened because the bank accounts have been frozen, because their employers are garnishing their wages, some employers use that as an excuse for firing or terminating their employment because they have these bad — they have these debt situations and they're not resolved. . . . the economy is bad enough but with this credit crisis going on, it's actually putting more people out of work.²²

Judges see first hand that economic pressures are having a profound effect on families and individuals across the State. As the Deputy Chief Administrative Judge Fern Fisher testified, Judges and court clerks report seeing more angry, crying, desperate, hopeless litigants.²³

The Family Court statistics are of particular concern. In 611,768 Family Court matters in which assigned counsel is not provided, approximately 74 percent of the litigants are unrepresented.²⁴ In child support matters in the Family Court in New York City, 93 percent of the parties are completely unrepresented and another 4 to 5 percent had counsel for only part of the case. Effectively, 97 to 98 percent of New Yorkers dealing with child support issues in New York City do so without full benefit of counsel.²⁵ In child support matters in Family Court outside of New York City, 86 percent of the parties are unrepresented, and another 9 to 11 percent have counsel for only part of the case.²⁶

Describing the impact of the lack of legal assistance in Family Court, the Hon. Joseph G. Nesser, Monroe County Family Court, remarked that in a custody trial the standard in Family Court is the best interests of the child, but the child's best interests are not going to be served by having litigants represent themselves since they cannot properly prepare and try a case.²⁷

The Hon. Kathie E. Davidson, Supervising Judge, Family Court, 9th Judicial District, covering Dutchess, Orange, Putnam, Rockland, and Westchester Counties, observed that:

Many of the litigants [in Family Court] have had little experience with the court system and are faced with legal issues affecting the very core of their family. In fact, we often hear the following questions: "judge, I don't even know why I'm here?", then "I cannot afford to take off from work. Can I just get this over with?" These very basic constitutional due process questions, of notice and opportunity to be heard, require the Judge to explain the various legal stages, to the unrepresented litigant in five minutes or less, which many of us take a course in law school to understand. These inquiries do not just begin in the courtroom, but they begin at the inception of the filing of the petition. As a result, it requires the entire court staff from the clerk's office, to explain the legal process to the litigants and to help them understand the petition process. This poses a burden to judicial resources and to the system in general.²⁸

Landlord tenant cases reflect the same problem. Outside of New York City, 98 percent of tenants do not have representation in eviction cases; in New York City, 99 percent of the tenants are unrepresented when faced with eviction and homelessness.²⁹

Based on his experience, the Hon Ruben A. Martino, Presiding Judge of the Harlem Community Justice Center, concluded that parties with attorneys, by far, end up with better outcomes. They receive better settlements in terms of the issues addressed, the language used, enforcement, and recovery.³⁰

The Hon. Norman St. George, Acting Supreme Court Justice, Nassau County Court, added that “. . . it’s the sad, unavoidable truth that litigants who appear in court without an attorney obtain an inferior result than those who appear in court with an attorney.”³¹ Judge St. George also noted that:

Each step in the litigation process is unduly delayed because the unrepresented litigant is completely unfamiliar with the process. There are rarely meaningful settlement discussions with unrepresented litigants; therefore, cases that can and should be settled proceed unnecessarily to trial Once the cases are on trial, the trials last substantially longer than those involving represented litigants because the Court has to explain matters that would otherwise not be discussed, such as the trial process, the meaning of evidentiary rulings, and why evidence was not admitted. The testimony from an unrepresented litigant is usually excessive and mostly unrelated to any of the issues at trial. There are rarely objections by unrepresented litigants resulting in long winded extraneous and irrelevant matters being presented by each side.³²

Front-line Judges report seeing more and more people faced with potentially life-altering legal problems. In order to obtain information about this problem, the Task Force asked the Office of Court Administration to conduct a Statewide survey of front-line Judges. Based on the direct observations of Judges across the State, responses to this recent Office of Court Administration survey revealed that 42 percent had seen an increase during the past two years in chronic low-income unrepresented litigants in their courtrooms. Even more troubling, 67 percent reported that there has been an increase of unrepresented litigants who have recently become low-income due to the economic downturn, and 53 percent indicated that there has been an increase in unrepresented litigants of moderate income.³³

The Judges’ survey responses also demonstrate the profound adverse impact that lack of legal assistance is having for New Yorkers in our courts this year: 63 percent reported that it was difficult to ascertain the facts of cases because evidence is not properly presented without legal assistance; 73 percent reported that unrepresented litigants failed to present necessary evidence; 64 percent reported that there was ineffective witness examination in the absence of counsel; 67 percent concluded that there were ineffective arguments; 70 percent reported that lack of legal assistance resulted in confusion over issues; and 84 percent reported a lack of knowledge about the law.³⁴

In addition, many Judges feel it stretches neutrality when they attempt to be engaged in a case involving unrepresented litigants. As Judge Martino testified: “What do we do in the middle of a trial when a litigant turns to you and says: Judge, I don’t know how to question this witness. . . . Or when they have a piece of evidence that you know is important in the case and the other side, let’s say, is represented, they’re objecting, they don’t know how to lay a foundation: Judge, I don’t know what to do.”³⁵

Adverse Impact on Represented Litigants: Representatives of the business community — like the Judges — believe that better results can be achieved when both sides have legal assistance. Both business leaders and Judges testified that providing counsel as early as possible can avert the need to file certain cases that are clogging the dockets of the courts throughout the State.

For example, numerous eviction cases in Housing Court would disappear if individuals had adequate access to legal assistance to resolve financial issues that fuel non-payment housing cases.³⁶ The judicial

system, property owners, and tenants all benefit when underlying legal issues are resolved by the provision of civil legal aid without the need to file an eviction case. In strikingly similar testimony, the head of the Rent Stabilization Association (a major entity representing private property owners) and the head of the Albany Housing Authority (a major public housing landlord) testified about the desirability of providing legal assistance which can keep cases out of court in the first place.

Joseph Strasburg, the President of the Rent Stabilization Association, put it succinctly:

All too often property owners and tenants, through no fault of their own, end up as adversaries in Housing Court because government agencies have failed to properly administer their programs. From the perspective of a property owner, the inability of individuals to navigate successfully through the maze of government bureaucracies has a most important and dire consequence: The failure to receive the monthly rental payment due and owing to the owner. . . . The ability of tenants to access unemployment benefits, healthcare coverage, food stamps, public assistance including Section 8, SCRIE [Senior Citizens Rent Increase Exemption] and DRIE [Disability Rent Increase Exemption] benefits and other forms of support is inextricably linked to the Housing Court caseload. Simply stated, the more support that is provided to individuals at the front end of this process, the fewer cases property owners need to bring in Housing Court for nonpayment of rents. In these types of cases where public benefits are at issue, the eviction of the tenant is not the owner's goal, rather the goal is simply to obtain the funds which are due and owing, not to see a change in tenancy. Providing more access to civil legal services at the front end will ease the burden at the back end.³⁷

Steven T. Longo, the Executive Director of the Albany Housing Authority, also observed that “mistakes can happen” and the provision of civil legal services prevents mistakes and preserves stability for both the individual family and the housing project itself.³⁸ Mr. Longo testified that “whereas if a Legal Aid attorney was to come in and stand shoulder to shoulder with the Housing Authority counsel and work this out and find ways to overcome the obstacles, and allow them to stay, get the services they need, and stay and not go into the homeless situation, not causing the Housing Authority the tremendous expense to turn over the apartment, it's a win-win for all of us.”³⁹

Similarly, representatives of leading banking institutions — Michael Helfer, the General Counsel of Citigroup, and Michael Smith, the President and CEO of the New York Bankers Association — testified that the provision of counsel to unrepresented litigants is important from a business operations perspective.

Mr. Helfer observed that mandatory mediation of foreclosure programs is extremely inefficient due to the large number of unrepresented homeowners.⁴⁰ Cases with unrepresented homeowners take longer to settle, adding overall costs and delays to the court system.⁴¹ “[I]t imposes a huge burden on the judiciary in addition to the other inefficiencies that are involved”⁴² Providing representation to these homeowners not only makes the process more efficient, but may end in better results for all involved.⁴³ Mr. Helfer noted that:

Foreclosure, aside from the public policy issues that are involved, which are things that we clearly do take into account simply as a business and financial matter, foreclosure is expensive, it is value destructive and we and the holders of the mortgage itself, often investors, who are servicing the mort-

gage, are clearly much better off having people in the property, taking care of the property, keeping it as their own, creating more stable communities and making payments that they can make, consistent with what their economic situation is. It's no question that it's the right thing from the bottom line, it's the right thing . . . from the social perspective.⁴⁴

Indeed, he added that “it is generally in the interests of everyone — lenders, borrowers, and communities at large — for mortgage holders to keep their homes.”⁴⁵ From the vantage point of the bottom line, Mr. Smith of the New York Bankers Association concluded that:

Additional legal aid services would reduce court congestion and shorten the foreclosure process to bring resolution to homeowners and lenders, and in many cases, prevent further deterioration of homes and neighborhoods. . . . legal representation for those who could not otherwise afford to have counsel in civil litigation, not only assures a fair outcome, but also greatly decreases the amount of time needed to resolve disputes and enhance efficiencies in the court system. Such efficiencies would help courts to more speedily address their overburdened dockets, provide resolution to all litigants in a more timely manner, and ultimately, save time and resources for all.⁴⁶

Evidence before the Task Force clearly establishes that the provision of civil legal services is the essential ingredient for resolving disputes before they get to court and settling them efficiently and effectively when cases do end up in court.⁴⁷ The absence of counsel often results in just the opposite, which is in no one's interest. Thomas Richards, the Rochester Corporation Counsel and the former CEO of Rochester Gas & Electric, put it this way:

Relatively simple aspects of the process take more time and are more likely to be adjourned or repeated. The outcome is less likely to be understood and accepted by the unrepresented party. . . . All of this adds time and frustration and expense that's borne by everyone and ultimately leaves society with a less effective legal system.⁴⁸

As Kathryn Wylde, the President and CEO of the Partnership for New York City, concluded:

A fair and just legal system is essential to sustaining the confidence of business in our city, and to encouraging investment and growth. This is why insuring adequate representation for lower income New Yorkers dealing with our civil legal system is so important to the economic future and well-being of our city.”⁴⁹

Finding 2: *Providing civil legal assistance increases federal benefit payments for low-income New Yorkers, and reduces the need for State and local government assistance payments.*

Extensive evidence produced at the Chief Judge's hearings conclusively establishes that the provision of civil legal assistance brings substantial federal funds to clients and thereby back into the New York economy and results in significant cost savings to State and local governments.

Substantial Support for the New York Economy: In the past, requests for civil legal services funding have generally focused on the profound benefits to low-income New Yorkers who receive civil legal assistance — for example, a family avoids homelessness, a senior citizen receives proper medical treatment, a low wage worker obtains wrongfully withheld wages, a worker with disabilities secures federal

disability benefits, an unemployed worker is able to feed her children with federal food stamp assistance, a woman and her children are able to escape from domestic violence and obtain child support, a student with learning disabilities receives the additional tutoring necessary to stay in school and succeed later in life.

Beyond these benefits to individual, vulnerable low-income New Yorkers, the Task Force analyzed IOLA data concerning the economic benefits to the New York economy resulting from the provision of civil legal assistance that results in clients obtaining federal benefits in place of State and local assistance.

IOLA provides funding to the vast majority of civil legal services organizations in New York State and independently monitors and evaluates their work each year. IOLA has amassed data over a number of years, and therefore the IOLA data provides a basis for evaluating the multi-year economic impact of the provision of civil legal aid to low-income New Yorkers.

Conservatively analyzing the IOLA data for 2009, IOLA estimates that the economic impact in New York in terms of benefits won and costs saved was more than \$400 million. This figure is comprised of: 1) \$321 million in federal funds brought into the State in the form of direct federal benefits for individual clients; and 2) over \$100 million in taxpayer savings in homelessness prevention and domestic violence matters.

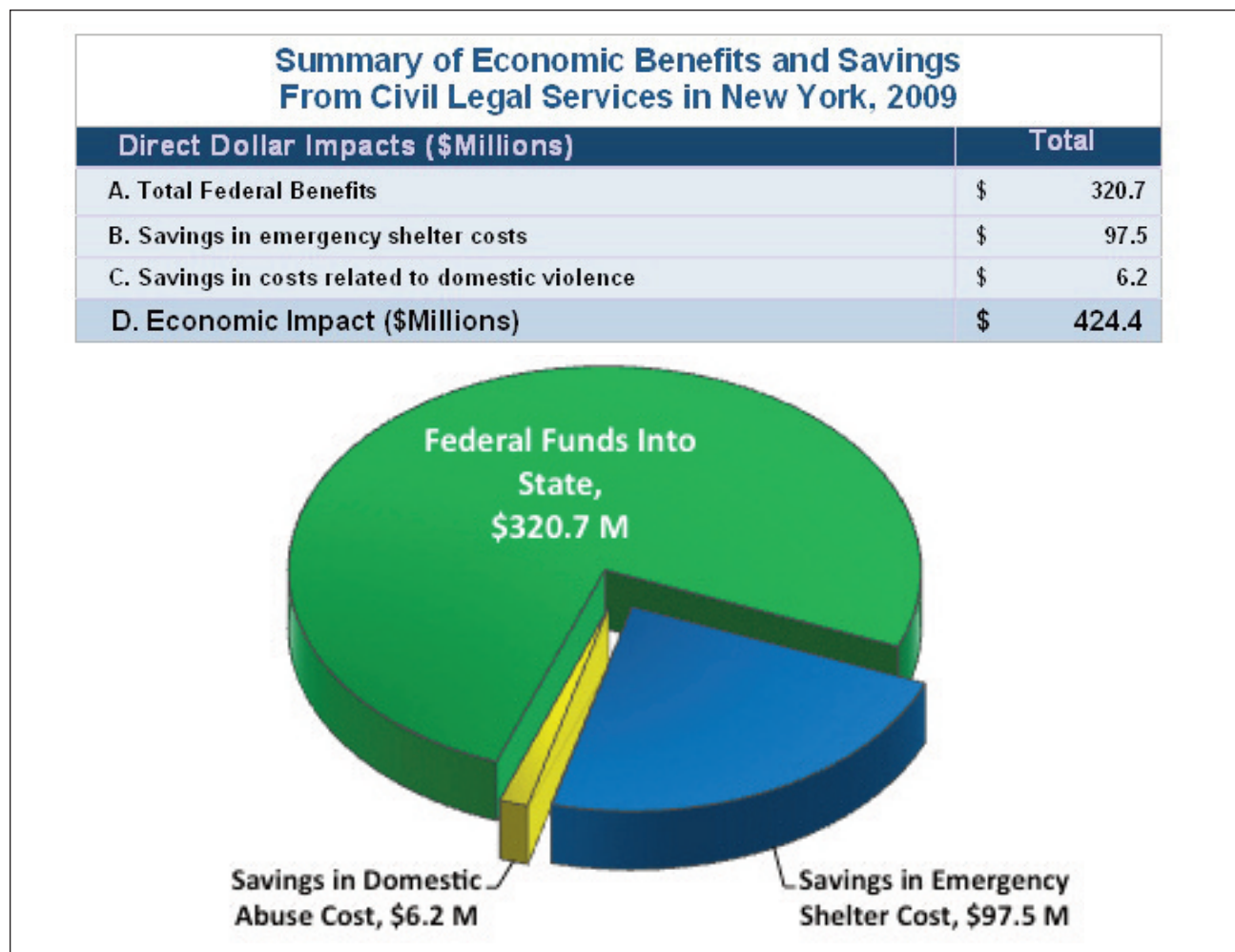
The largest component of the \$321 million in federal funds brought into New York State in the form of federal benefits for clients in 2009 consisted of \$154 million in federal Supplemental Security Income and Social Security Disability benefits. This \$154 million amount is calculated by looking at retroactive awards and monthly benefits won by clients in 2009, as well as benefits received in previous years that continue forward. For example, federal Supplemental Security Income and Social Security disability retroactive benefit awards and monthly benefits totaled more than \$57 million in 2009. However, federal disability benefits awarded in previous years continue to come into New York. In fact, the average duration of these federal disability benefits is 9.7 years. Looking back only five years, and using the data collected from IOLA grantees from 2005–2008 regarding ongoing monthly federal disability benefits, the total of all Supplemental Security Income and Social Security disability benefits received in 2009 is calculated to be more than \$96 million. Thus, in combination, this \$96 million in ongoing federal disability benefits and \$57 million in retroactive and new federal disability awards resulted in approximately \$154 million in federal disability benefits coming into the State for clients in 2009.

In addition to this \$154 million amount, the remainder of the \$321 million in federal funds brought into New York State to clients in 2009 included \$113 million in federal Medicaid dollars; \$21 million in federal earned-income tax credits; and more than \$32 million in additional federal benefits such as Veterans benefits and Medicare.

Hearing testimony from government officials and others also highlighted cost savings to State and local governments by preventing evictions and foreclosures and thereby averting homelessness and the expense of emergency shelter, by keeping families together and avoiding foster care placements, and by

obtaining federal disability benefits and unemployment insurance in place of State and local public assistance benefits. Based on an analysis of data, the IOLA Fund has projected \$100 million in annual cost savings to State and local governments as a result of providing this type of civil legal assistance.

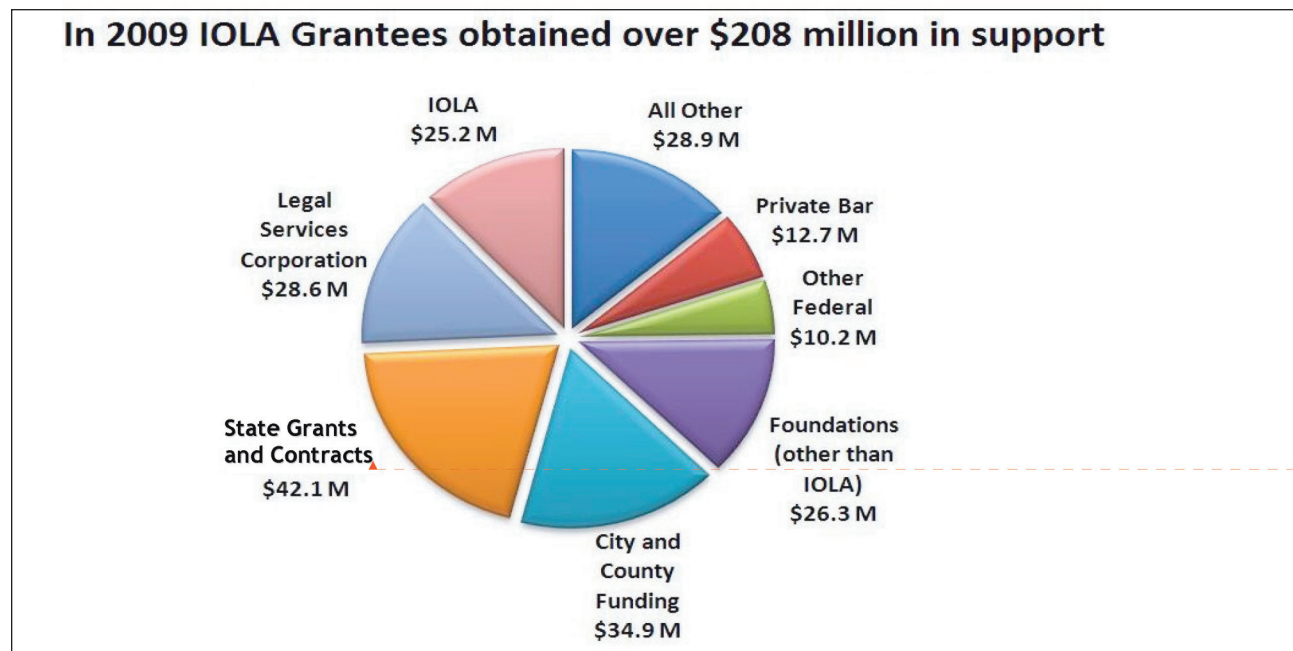
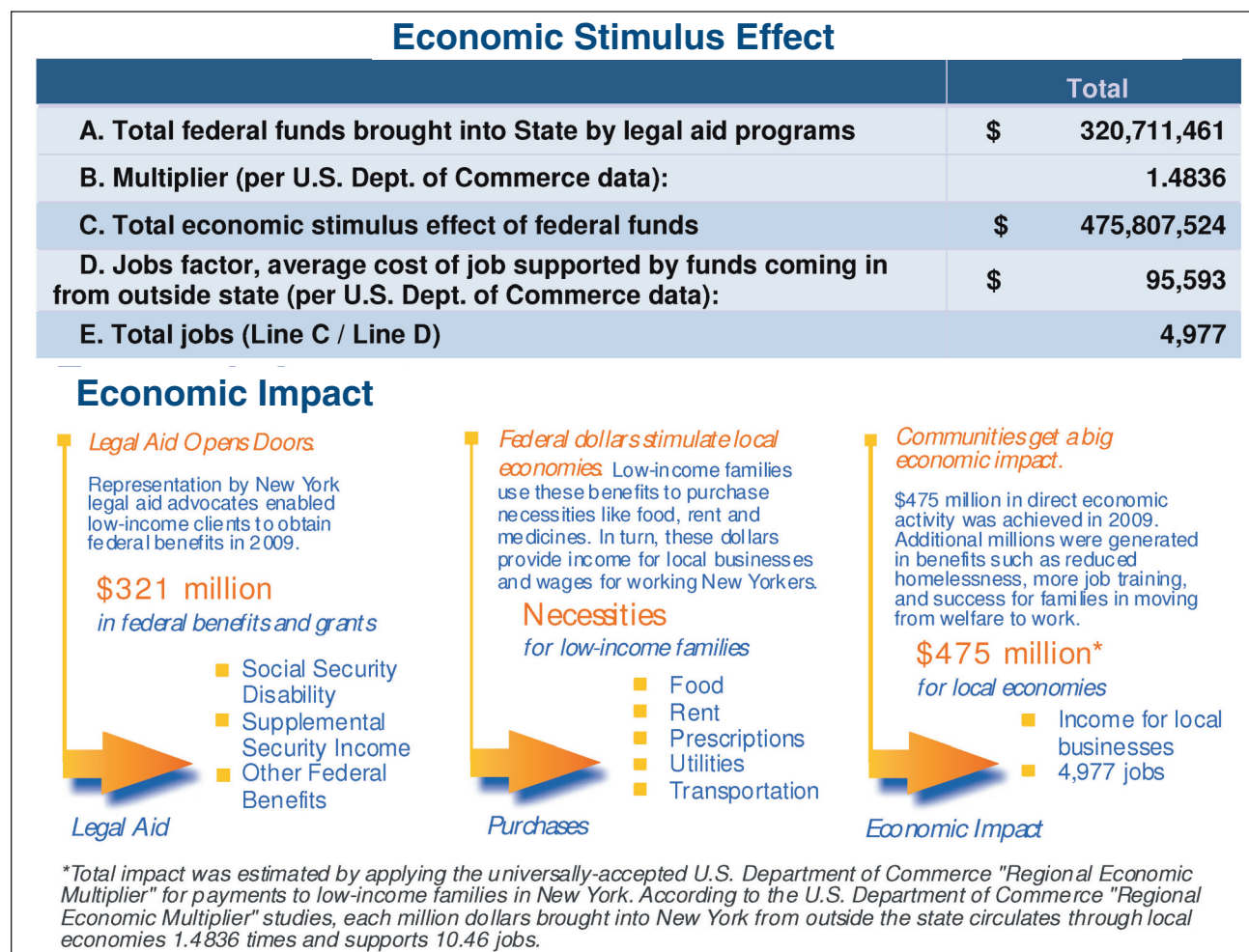
The charts below provided by IOLA highlight these key economic benefit findings:



Charts Provided by IOLA (compiled based on data in the annual reports of IOLA grantees).

Moreover, the United States Department of Commerce estimates that every dollar brought into the New York economy generates a multiplier effect of 1.48 as low-income families and individuals use the money to purchase necessities like food, rent, and clothing, which support local businesses.⁵⁰ Therefore, using this multiplier, the IOLA Fund has calculated that the \$321 million in federal benefits for clients brought into New York generated an additional \$475 million in direct economic activity, providing an estimated 5,000 jobs for local businesses. When this \$475 million in additional economic activity is combined with the federal funds brought into the State in the form of direct federal benefits for clients (\$321 million) and the taxpayer savings in homelessness prevention and domestic violence matters (over \$100 million), IOLA has calculated that the overall economic impact for the New York economy from the provision of civil legal aid is nearly \$900 million. At the current Statewide funding level of \$208 million for all sources — federal, State, local and private — this is a return to New York of nearly \$5 for every \$1 dollar spent to support civil legal services organizations.

Below are two IOLA charts that set forth this economic stimulus effect and the patchwork of the current civil legal services funding.



Charts Provided by IOLA (compiled based on data in the annual reports of IOLA grantees).

Civil Legal Assistance Generates Significant Cost Savings for State and Local Governments: As shown above, data from the IOLA Fund and other evidence obtained from the Chief Judge’s hearings establishes that there are also substantial savings realized by State and local governments as a result of civil legal services provided to low-income New Yorkers. Both the Albany County Executive, Michael Breslin, and the Suffolk County Attorney, Christine Malafi, testified as to the importance of the cost savings that civil legal assistance generates.⁵¹

For example, preventing wrongful evictions and foreclosures averts homelessness and thereby reduces emergency shelter costs. Every year thousands of New Yorkers face the threat of losing their home. The impact on families is substantial, resulting in lost jobs, disruption of education for children, and threatening the stability of the family involved, and there are costs for all of society in terms of lost productivity and other ancillary damages. In addition, there are more direct costs, such as the cost to State and local governments of providing emergency shelter for homeless families. Based on IOLA data, the chart below conservatively presents the total number of cases in which eviction was avoided, the total number of people involved and the average cost to taxpayers in providing emergency shelter in New York City and suburban and upstate areas. It shows that New York taxpayers saved nearly \$100 million in 2009 as a result of homelessness prevention assistance that civil legal services organizations provided across the State.

| Savings in emergency shelter costs, 2009 | | | | |
|-------------------------------------------------------------------------------------------------|-------------------------|-------------------------------------|--------------------------------|--------------|
| | <i>NYC (Unit 1)</i> | <i>Suburban (Units 2&3)</i> | <i>Upstate (Units 4-7)</i> | <i>Total</i> |
| A. Number of cases for which eviction was avoided or delayed or foreclosure was averted: | 9,699 | 2,806 | 4,313 | 16,818 |
| B. Estimated # of people for whom eviction was avoided or delayed: | 24,010 | 8,491 | 12,963 | 45,465 |
| C. Percentage of the above for which homelessness was avoided: | 34% | 12% | 5% | |
| D. No. of cases in which family avoided homelessness (line A times line C): | 3,334 | 323 | 205 | 3,861 |
| E. Average cost to taxpayers per homeless family: | \$27,629 | \$ 15,648 | \$1,238 | |
| F. Estimated Savings for Taxpayers (line D x line E -- in \$Millions): | \$92.1 | \$5.1 | \$0.3 | \$97.5 |
| G. Estimated total no. of people who avoided homelessness (line B x line C): | 8,252 | 977 | 616 | 9,845 |

Chart Provided by IOLA (compiled based on data in the annual reports of IOLA grantees).

Again, using IOLA data for the five-year period 2005-2009, the IOLA chart below shows that taxpayer savings conservatively totaled \$355 million as a result of providing legal assistance to prevent homelessness.

| Summary: Savings in Emergency Shelter Costs, Five Years 2005-2009 | | | | | | |
|--------------------------------------------------------------------------------------------------------|--------------------------------------|-------------|-------------|-------------|-------------|--------------------------|
| | 2009 (See Exhibit 3A) | 2008 | 2007 | 2006 | 2005 | Total 2005-09 |
| A. Number of cases for which eviction was avoided or delayed or foreclosure was averted | 16,818 | 16,613 | 14,847 | 11,473 | 10,532 | 70,283 |
| B. Estimated # of people for whom eviction was avoided or delayed | 45,465 | 41,733 | 39,013 | 30,912 | 31,236 | 188,359 |
| C. No. of cases in which family avoided homelessness | 3,861 | 3,775 | 3,470 | 2,557 | 2,266 | 15,929 |
| D. Estimated Savings for Taxpayers (\$Millions) | \$97.5 | \$80.8 | \$74.8 | \$54.5 | \$47.8 | \$355.4 |
| E. Estimated total no. of people who avoided homelessness | 9,845 | 8,722 | 8,863 | 6,906 | 6,464 | 40,801 |

Chart Provided by IOLA (compiled based on data in the annual reports of IOLA grantees).

Of course, no price can be put on many of the benefits in human terms of providing civil legal assistance — for example, protecting clients from domestic violence. Yet even in these cases in which literally life and death may be at stake, actual cost savings can be analyzed. A recent study in Wisconsin examined expenditures for the average survivor of domestic violence in terms of medical care, lost wages, counseling for affected children, police resources, and incarceration of abusers. The study showed that the average savings from protecting a family from domestic violence was \$3,400.⁵² Using that figure in conjunction with the actual number of IOLA grantees' cases in which families received protection from domestic violence, the IOLA Fund has conservatively calculated at least some of the savings realized from the prevention of domestic abuse: \$6 million in 2009, and \$36 million over the years 2005–2009.

Savings in costs related to domestic violence, five years 2005-09

| | 2009 | 2008 | 2007 | 2006 | 2005 | Total 2005-09 |
|-----------------------------------------------------------------|---------|---------|---------|---------|---------|------------------|
| A. No. of cases for which families obtained protection from DV | 1,832 | 2,170 | 2,008 | 2,307 | 2,476 | 10,793 |
| B. Average cost per victim:* | \$3,406 | \$3,406 | \$3,406 | \$3,406 | \$3,406 | |
| C. Estimated cost savings (\$Millions): | \$6.2 | \$7.4 | \$6.8 | \$7.9 | \$8.4 | \$36.7 |
| D. No. of people who obtained protection from domestic violence | 3,994 | 5,783 | 4,387 | 5,927 | 6,434 | 26,525 |

* Source: "Increasing Access to Restraining Orders for Low-Income Victims of Domestic Violence: A Cost-Benefit Analysis of the Proposed Domestic Abuse Grant Program," L. Elwart, et al. (December 2006), page 13. Note that the amounts listed here have been adjusted for inflation.

Chart Provided by IOLA (compiled based on data in the annual reports of IOLA grantees).

Thus, in combination with testimony at the Chief Judge's hearings, analyzing the outcomes of IOLA grantee cases in 2009 demonstrates that providing legal services for at-risk New Yorkers results in a substantial economic benefit in cost savings for State and local governments and federal benefits for clients brought into the State. The IOLA analysis clearly establishes that funding civil legal assistance is a positive investment in New York — just as business and community leaders testified at the Chief Judge's hearings.

Finding 3: *The unmet need for civil legal assistance in New York State is profoundly impacting vulnerable New Yorkers and costing taxpayers millions of dollars by increasing homelessness, failing to prevent domestic violence, and increasing poverty.*

Extensive testimony at the Chief Judge's hearings from both clients of civil legal services programs across the State — urban, suburban, and rural — and community and government leaders described the demographics of low-income New Yorkers who need civil legal assistance and the harms resulting from the unmet need — including harms due to missed work, disruption of education, and adverse impact on health, all of which increase costs to government and society as a whole.

Even prior to the economic downturn, there was a significant unmet need for civil legal assistance. Reliable prior studies, for example, found that for every person who actually came to a legal services office seeking legal assistance, another eligible client was turned away for lack of resources. In a landmark 1994 study, the American Bar Association (ABA) conducted a nationwide survey to assess the legal needs of low-income families and individuals, and found that less than 20 percent of their legal needs were being met.⁵³

In order to ensure that its recommendations to the Chief Judge are based on the most thorough and comprehensive data available, the Task Force commissioned studies of low-income New Yorkers and legal services providers to evaluate the current unmet need for civil legal services across the State, particularly in light of the continuing economic downturn.

The Task Force’s Legal Needs Study Documents a Substantial Unmet Need for Civil Legal Assistance in New York: Under the auspices of the Fund for Modern Courts, the Task Force sponsored a survey of the legal needs of low-income New Yorkers, the first survey of its kind conducted in New York in more than two decades. The results demonstrate both the tremendous number of civil legal problems experienced by low-income New Yorkers, and the fact that a very large percentage of their civil legal needs are going unmet.⁵⁴

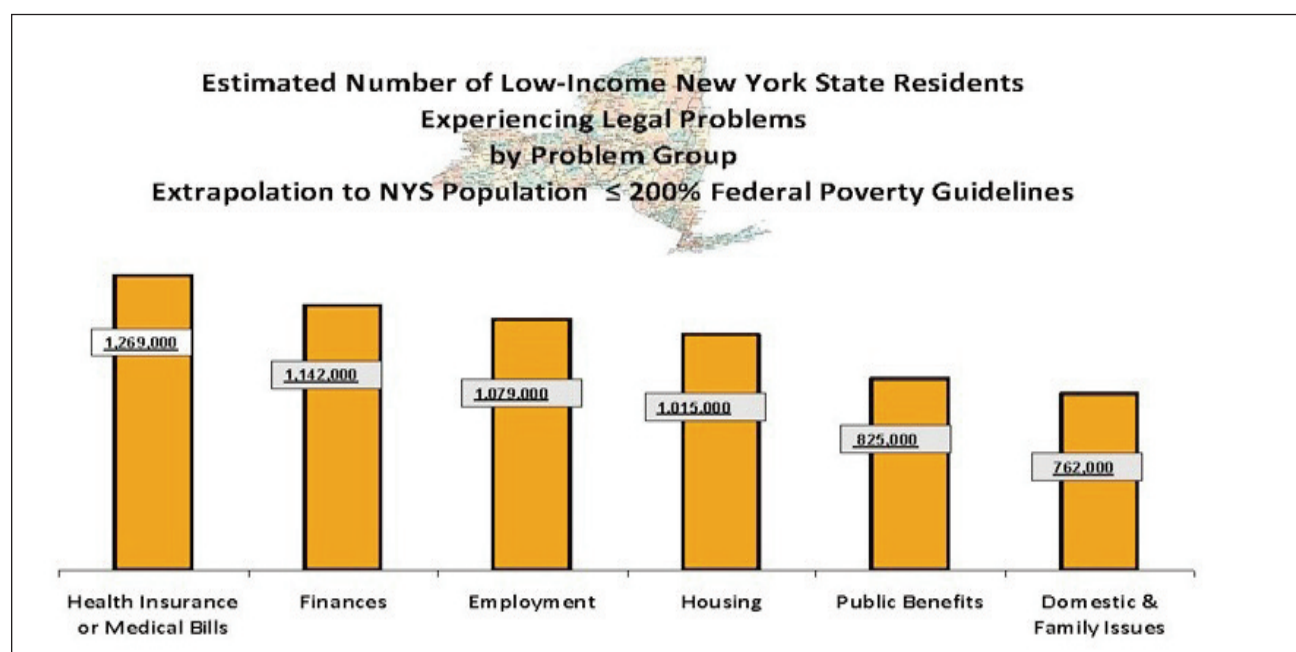
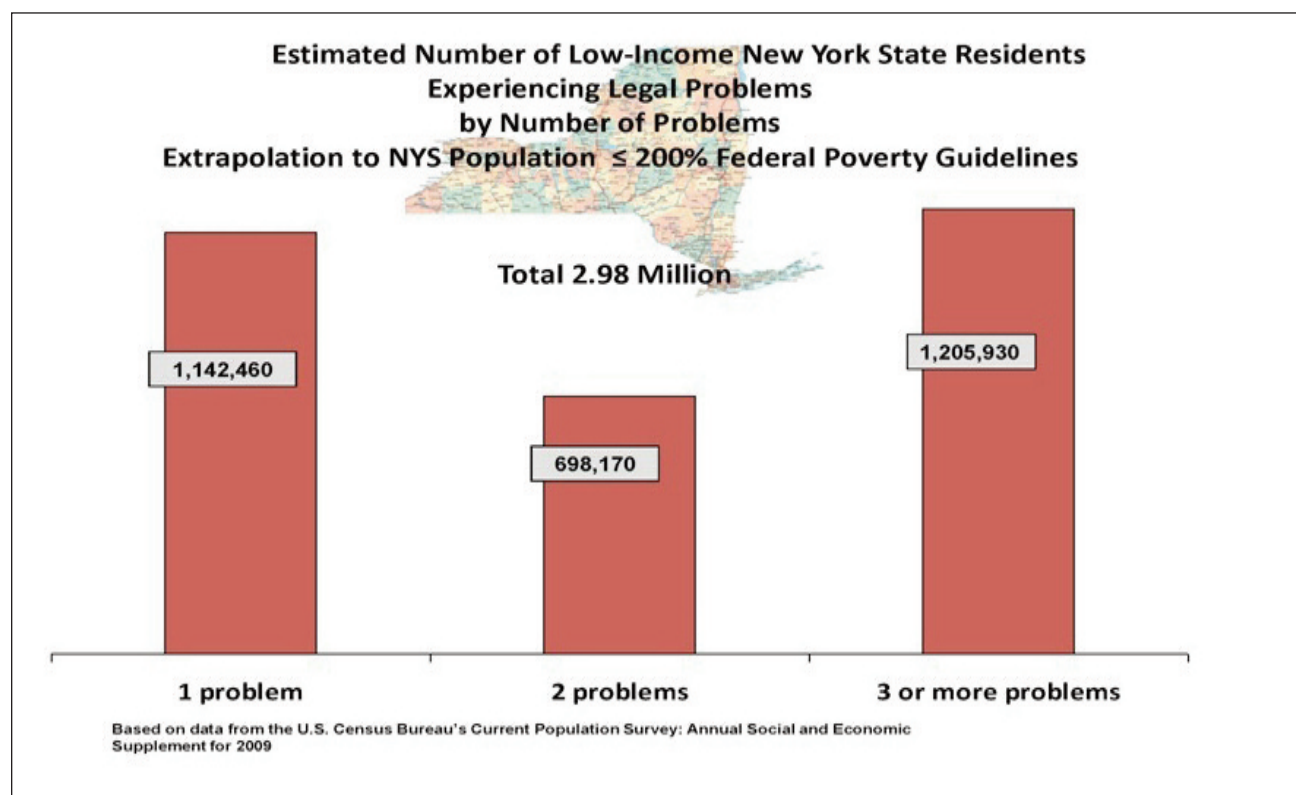
In August 2010, Lake Research Partners, a well-respected independent opinion polling company which uses standard professional sampling methods similar to the 1994 ABA study, conducted a survey by telephone and sampled low-income New Yorkers defined as having a household income at or below 200 percent of the federal poverty level. The survey asked whether anyone in the household had experienced any of 36 specific legal problems in the past year.⁵⁵ The key finding was that nearly half of all low-income New Yorkers — 47 percent — experienced one or more legal problems in the past year, and many experienced more than one legal problem.⁵⁶

September 2010 federal poverty data shows that over 6 million New Yorkers live at 200 percent of the federal poverty level or below.⁵⁷ The federal poverty level and 200 percent of that level are set forth below.⁵⁸

| 2010 Poverty Guidelines for the 48 Contiguous States and the District of Columbia | | |
|--------------------------------------------------------------------------------------|-------------|-------------|
| Family Size | 100% | 200% |
| 1 | \$10,830.00 | \$21,660.00 |
| 2 | \$14,570.00 | \$29,140.00 |
| 3 | \$18,310.00 | \$36,620.00 |
| 4 | \$22,050.00 | \$44,100.00 |

Applying the survey results for the number of problems experienced by the Lake Research sample to the entire low-income population, Lake Research found that nearly 3 million residents of New York State experienced a legal problem in the past year. Of this group, just over 1 million experienced one problem, nearly 700,000 two problems, and 1.2 million three or more problems. The legal problems experienced by New Yorkers were varied, but often involved fundamental issues vital to low-income New Yorkers such as health insurance, housing issues, finances, public benefits, and domestic and family issues. The Lake Research survey also found that many of these low-income New Yorkers simply did not seek legal help to address these legal problems — whether due to fear, intimidation, or lack of knowledge about what to do.⁵⁹

Moreover, comparing the Lake Research data to the number of cases that providers close further demonstrates the extent of the unmet need for civil legal assistance for low income New Yorkers. The Lake Research data indicates that 1.2 million low-income New Yorkers had three or more legal problems in 2009 and thereby experienced the most pressing need for civil legal help. Meanwhile, IOLA data shows that just over 260,000 cases were closed by IOLA grantees in 2009. Comparing the number of closed cases to the number of low-income New Yorkers with multiple legal problems shows that at best 20 percent of the need for civil legal services is being met.



Charts Prepared by the Fund for Modern Courts based upon the Lake Research Legal Needs Study.

Task Force Data Shows That Legal Services Organizations Across the State Must Turn Away an Increasing Number of Low-income New Yorkers Due to a Lack of Resources: The experiences of civil legal services providers across the State confirm the results of the Lake Research survey which reveals a substantial unmet need for civil legal assistance in New York State.

Even before the current economic downturn, the 1994 ABA study found an 80 percent gap in meeting the civil legal needs for low-income families. Now in the midst of the continuing economic downturn, the Task Force's provider survey shows that — because of lack of resources — programs across the State are turning away more eligible clients than previously was the case.

As shown above, the provider survey documents the substantial impact that the economic downturn is having on low-income New Yorkers. Since January 2010, 91 percent of the provider responses reported increases in requests for assistance from formerly moderate-income households; 90 percent reported increases in unemployed individuals seeking assistance; 91 percent reported increases in requests for assistance to stop foreclosures; 85 percent reported increases in requests for eviction prevention assistance; 81 percent reported increases in requests for consumer debt assistance; 78 percent reported increases in requests for bankruptcy assistance; and 67 percent reported increases in requests for domestic violence assistance.

Just when the need for civil legal assistance is increasing, the Task Force's survey also found that 57.7 percent of the provider responses reported staffing reductions because of budget cuts.⁶⁰

The Substantial Social and Human Costs of the Growing Crisis of the Unrepresented: Behind these stark statistics are families and individuals who were facing the loss of the essentials of life when the provision of civil legal assistance resolved their dire situation and enabled them to move toward self-sufficiency.

Data from the Task Force's legal needs survey, for example, indicates that 265,000 low-income New Yorkers have had legal problems involving housing, evictions, and foreclosures, creditors and bills, and disability assistance. Among these New Yorkers are:

- **Veterans** who served our country faced with foreclosures or credit card debt or post-traumatic stress disorder whose lives would have been destroyed without the civil legal assistance they received to save their homes, resolve their debts or secure disability benefits and housing aid. As Alvin Thomas described his circumstances:

It was only recently that I have been able to put the pieces together in my life. I truly believe that if it was not for the representation that I had gotten from the legal services of Westchester County and Hudson Valley I would not have been ever able to do so. . . . Some of us guys come back so wounded . . . you have to put a whole bunch of little pieces together just . . . to make a big person.⁶¹

John Brown added that "I just returned from seven months in the army and was struggling to find steady work, stable work as a civilian. . . . when you come back from active duty, all insurance, all benefits are taken away. So you lose all of that when you come home. . . ."⁶²

Similarly, the Task Force’s legal needs survey data indicates that large numbers of low-income New Yorkers have had legal problems involving domestic violence. Accordingly, New Yorkers who testified at the Chief Judge’s hearings included:

- **Survivors of domestic violence and human trafficking who endured harrowing circumstances:** A woman, who was literally enslaved working for less than the minimum wage as a victim of human labor trafficking, testified that she was saved by the provision of civil legal assistance, which made it possible for her to start a new life, gain lawful permanent residence as a crime victim, and obtain gainful employment to support herself.⁶³ She testified that “I felt I had to stay there and keep working for them — I thought I had no other options.”⁶⁴ A survivor of domestic violence and a mother with young children was brutally beaten repeatedly and may well have been killed without civil legal services, which enabled her to escape to safety with her children, receive child support, and rebuild her life with her children.⁶⁵ She testified that “I tried many times to leave my husband but . . . I did not understand my legal rights”⁶⁶

Meanwhile, the Task Force’s legal needs survey found that senior citizens, in particular, had significant legal needs. Consider, for example, the hearing testimony of:

- **A senior citizen** faced with the loss of his home through foreclosure after a lifetime of work and whose wife suffered from the challenges of a bi-polar condition and dementia could not have coped with these overwhelming legal problems without expert civil legal assistance that unraveled and solved these complicated matters. He testified that “[w]e had nowhere else to go and [legal services] found a path for us in many directions.”⁶⁷

Likewise, the legal needs survey revealed that 58 percent of low-income households that include a family member with disabilities experienced legal problems. Testimony at the hearing highlighted these needs, including testimony from:

- **New Yorkers with disabilities who experienced denials of essential assistance:** A child with a disability was deprived of the very education and supportive services that he needed to reach his full potential in life and then received life-altering legal representation that enabled him to learn and thrive in school. His mother testified that “[i]f the Legal Aid Society Children’s Law Project had not represented Aiden he would be confined to home school, with no chance for a normal education and social development.”⁶⁸ An adult with a disability was denied the transportation assistance he needed to live independently in his rural community and testified that without legal services he “would still be a prisoner in [his] home.”⁶⁹

The Task Force’s legal needs survey also documents the significant legal problems experienced by both unemployed New Yorkers and the so-called working poor. Representative New Yorkers who testified about these challenges at the Chief Judge’s hearings included:

- **Unemployed workers faced with evictions or foreclosures,** and New Yorkers all across the State, who were denied the assistance to which they are entitled by bureaucratic snafus, could not solve their legal problems on their own — regardless of their level of education — but then received

civil legal assistance that changed everything. One New Yorker testified that: “I don’t know what I would have done or what would have happened to us if Legal Aid hadn’t fought for my unemployment benefits or prevented our eviction, or helped me even with just heat in the winter.”⁷⁰ Another client stated: “I was desperate to save my home, but I did not know my legal rights or even if I had any.”⁷¹

- **Low-income union members** such as the client who was only able to escape to safety from domestic violence, and thereby protect her children, with assistance from a civil legal services attorney. She testified that “[t]here is absolutely no way I would have been able to afford a divorce attorney and understand . . . the legal system.”⁷²

But those who testified at the hearings were some of the fortunate New Yorkers who were able to receive civil legal help. In each of the Chief Judge’s hearings in the four Judicial Departments of the State, witnesses testified about the harsh social costs resulting from the lack of civil legal services for the many other low-income New Yorkers throughout the State who cannot receive the legal aid that they need.

A school superintendent and other educators described young people who could not keep up in school because of evictions and homelessness that civil legal services could have prevented. Jean Claude Brizard, the Rochester School District Superintendent, testified that “children displaced from their homes due to foreclosure, eviction, or abuse face enormous barriers to educational and workplace successes. . . . [T]he crime rate is directly correlated to the dropout rate.”⁷³ Patricia Bentley of the New York State United Teachers observed that not only does the lack of funding and resources affect the working poor, but it also affects those on the margin — community college students, part-time students, etc. — who end up having to choose between tuition and legal fees. The unavailability of affordable or free civil legal services only continues the cycle of under- or low-wage employment for these groups of people.⁷⁴ Rachael Gazdick, Executive Director of Say Yes to Education, testified at the Rochester hearing that:

We see many families who face eviction from their homes for various reasons. Some are threatened with eviction because they have not paid the rent in an effort to force the landlord to remedy problems such as leaky roofs, broken windows, no heat, insect or rodent infestations, and mold. Some are unable to pay their rent because a parent has lost a job, or the family has had unexpected medical bills, or because they have lost benefits that enable them to make ends meet. If the family is evicted, the child may become homeless or have to change schools. They may have to move in with other family members or friends into crowded conditions. None of these results will provide an environment that will enable a child to perform well in school.⁷⁵

The District Attorneys highlighted the adverse impact on crime victims and on efforts to divert New Yorkers from the criminal justice system caused by the lack of assistance to resolve underlying civil legal issues like problems relating to housing and homelessness, lack of mental health services, and wrongful denials of employment and education assistance. Kings County District Charles Hynes testified that the single largest group using civil legal services is women, many of them struggling to protect themselves and their children from the violence of an intimate partner.⁷⁶ Kathleen B. Hogan, District Attorney of Warren County and the Board Chair and the immediate Past President of the District At-

torneys Association of the State of New York, testified that while domestic violence advocates can ease the pain of Family Court proceedings, there is no question that the fundamental “critical component” of legal representation is an attorney who knows the rules and the system and more funding is needed.⁷⁷ She noted that “everyone who comes into the court system is supposed to get a fair shake. You’re not supposed to be standing there on your own and you surely, when you go in, shouldn’t have to run the risk of losing your children because you can’t get counsel.”⁷⁸

A Deputy Sheriff from Rockland County recounted holding a 10-day old infant in her arms while the child’s family was evicted on a snowy day, taking what they could in their car and leaving the rest on the street, and other grim cases in which the provision of civil legal assistance could have prevented the improper garnishment of wages, evictions, foreclosures, and homelessness.⁷⁹

Labor leaders from the State AFL-CIO, the State Union of Teachers, the Civil Service Employees Association, 1199 and the United Auto Workers testified about members who needed civil legal assistance to avoid evictions and foreclosures and escape domestic violence despite “good paying” union jobs. Denis M. Hughes, the President of the State AFL-CIO, described the need to provide civil legal aid to those just getting by who are living from paycheck to paycheck and cannot afford legal services.⁸⁰ Denise Berkley of the Civil Services Employees Association added that those who cannot afford their own civil legal services and are not lucky enough to receive aid suffer from absenteeism, loss of basic necessities, and loss of employment, which lead to other domino effects and add to the social cost of limited resources.⁸¹ 1199 and UAW leaders also testified about their attorney and non-attorney members working in legal services programs having to say “no” to low-income New Yorkers who they could help if they had enough resources — while they themselves have gone without raises and lost benefits as civil legal services funding has been cut.⁸²

Physicians referred to children with chronic illness whose families need civil legal aid in order to address underlying issues that adversely impact their health. Doctor Steven D. Blatt of the University Hospital at SUNY Upstate Medical University, for example, testified that “[m]y office has 25,000 visits annually. A few years ago we surveyed our families and found that 60 percent of them had at least one unmet legal need. This included income issues such as public benefits or entitlement programs, housing issues, education and special education, custody and guardianship, immigration issues, domestic violence, divorce, and elder law issues.”⁸³ Dr. Fran Weisberg, Executive Director, Finger Lakes Health Systems Agency, added that “civil legal service providers are vital to the work that we do in improving health status and ensuring health access Whether it’s work at the individual level, like representing clients who are denied needed benefits, or helping people navigate the Medicare system and secure quality care they deserve.”⁸⁴

Leaders in the fight against domestic violence described the impact on families and how critical civil legal assistance is to stopping this scourge. Lois Schwaeber, Director of Legal Services at the Nassau County Coalition Against Domestic Violence, testified that “[w]ithout representation by an attorney well versed in the issues, the safety of victims of intimate partner violence is severely compromised.”⁸⁵ Jeanne Noordsy from the Domestic Violence Project of Warren and Washington Counties added that

“a person needs not only an attorney, but an attorney that understands the particular issues they’re facing.”⁸⁶ Summing up, Dr. Catherine Cerulli, from the Department of Psychiatry at the University of Rochester, testified that:

At some point if we don’t offer civil legal services, we will pay one way or another. The way that we will pay will be increased homicides, increased healthcare costs, increased incarceration for perpetrators, if left for the violence to escalate, and the impact on children will be immeasurable in terms of dollars. It will only be measurable in terms of lost opportunities. It is important that we invest now or we will pay later.⁸⁷

Community leaders like David Jones of the Community Service Society warned of “dire consequences” resulting from the lack of civil legal assistance. He cited the increasing numbers of unemployed New Yorkers of color, including data showing 67 percent of community residents out of work for one to three years. He also testified about the need for civil legal aid to address the potential impact of the loss of housing and health care as well as barriers to re-entry to the community from correctional facilities.⁸⁸

Rural community leaders and service providers presented the special problems of rural poverty — not the least of which are transportation problems — and the lack of civil legal assistance. Susan Patnode of the Rural Law Center noted that “[l]egal and human services to rural counties are sparse, and that sparseness results in unfair encounters with the legal system and persistent, generational poverty.”⁸⁹

Religious leaders also cited the deterioration of neighborhoods when civil legal services cannot be provided to help children and adults living in poverty. Earl Eichelberger of Catholic Charities testified that there “just aren’t enough services available to meet the demand that exists.”⁹⁰ The Reverend Terry Troia of Project Hospitality said that decreased civil legal services will undermine Staten Island’s stability at a time when the overall population and the poverty rate are growing more rapidly than the rest of New York City. More people will lose their homes, which will increase the numbers of homeless people and erode the stability of neighborhoods. Without essential benefits such as food stamps and unemployment benefits, a higher number of people will be forced into deep poverty and more domestic violence survivors will risk serious harm to themselves and their children.⁹¹

Christine Malafi, the Suffolk County Attorney, spoke for many witnesses when she concluded:

[Providing civil legal assistance] affects society as a whole. Providing legal services to people who cannot afford legal services avoids the payment by the government of Social Services and welfare benefits. It avoids the use of Social Service workers, probation officers, police officers and other government workers who have to assist those in need, who become in need because they don’t have legal representation. It helps society as a whole because it creates jobs in the area of legal representation. It helps businesses in the economy and by avoiding decreased productivity and increased absenteeism of employees. It helps cases flow through the court system faster. It allows the Judiciary to act for the benefit of everyone as other elected officials can do. It also legitimizes the government as a whole and it avoids tragedies and reduces incidents of domestic violence.⁹²

Finding 4: *In these difficult economic times, current funding is inadequate to meet the critical need for civil legal assistance in our State of nearly 20 million people.*

Funding for civil legal service programs in New York State comes from IOLA and a number of other sources, including the federal Legal Services Corporation, State and local governments, private foundations and individual donors, and State and local bar associations. However, highlighting the need for stable, consistent, and permanent State civil legal services funding, there has been a dramatic reduction in IOLA funding because of the drop in interest rates due to the economic downturn.

The Crisis In IOLA Funding: After 26 years of providing a total of \$285 million in general support, which allows grantees throughout the State to apply these funds in the manner most needed to address client priorities involving fundamental human needs, civil legal services providers rely on IOLA as a primary source of support for civil legal assistance in New York. But the amount of IOLA revenue derived from lawyers' IOLA escrow accounts depends heavily on the interest rate provided by banks holding IOLA accounts, and interest rates are often very volatile. Compounding this problem, a decrease in the interest rate is often associated with a downturn in the economy, and thus during periods when both the need for civil legal services and the actual number of indigent New Yorkers increases, IOLA's ability to fund legal services decreases dramatically.

As a result of the economic crisis, in the Fall of 2008 interest rates dropped precipitously. In 2007, the largest financial institutions holding IOLA accounts were providing an average interest rate of 2.25 percent. By 2008, the rate had been cut in half to just over 1 percent; in October of 2009, the rate dropped even further to .31 percent. As of August 2010, the rate was down to .25 percent, representing an overall decline of 88 percent over three years.

The steady decrease in interest rates has had a devastating impact on the funds available to IOLA for grants to civil legal services providers across the State. The IOLA chart below highlights the problem. During 2007, the IOLA Fund generated slightly more than \$24 million. In 2008, the amount generated was close to \$32 million. In 2009, that figure plummeted, with only \$6.5 million available for distribution in 2010. With the support of the Legislature and the Governor, the Judiciary had to create a \$15 million IOLA rescue fund to mitigate the damage during the fiscal year that began on April 1, 2010. The projection for 2011 is even lower, with less than \$6 million expected to be available for distribution.

This catastrophic drop in IOLA income and grant making has come at a time of exponentially increasing need for civil legal services for low-income New Yorkers.⁹³ Since 2007, the total number of cases closed by IOLA grantees each year has risen 20 percent, from 220,000 to 264,000, and the growth in cases closed has been most explosive in areas where people have been hardest hit by the economic downturn: subsistence income and housing. From 2007 to 2009, cases closed involving obtaining, preserving, or increasing food stamps rose 115 percent; the increase in unemployment insurance matters was 127 percent, and the increase in foreclosure cases was 153 percent.⁹⁴

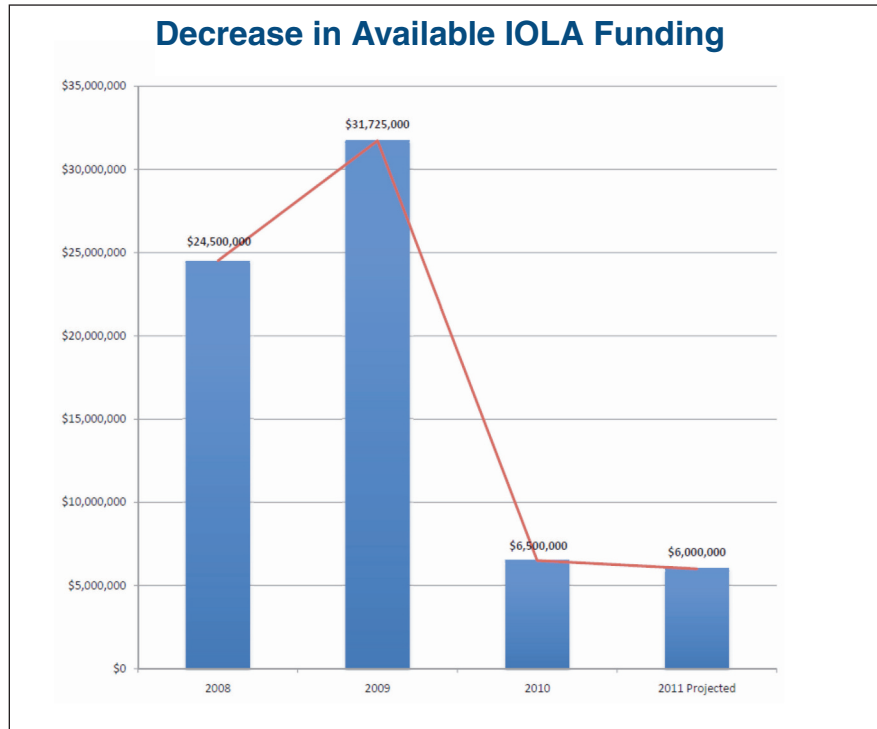


Chart Provided by IOLA.

Extensive *Pro Bono* Efforts Cannot Bridge the Justice Gap: New York attorneys are already providing extraordinary levels of *pro bono* assistance to try to address the crisis of the unrepresented in our courts, but this assistance is not nearly enough.

Overall, the private bar contributes annually more than 2 million hours to *pro bono* activities throughout the State. For example, in 2009, over 11,000 attorneys in New York volunteered their time through IOLA grantees, donating 450,000 hours of service. Valuing these hours at a very conservative figure of \$150 per hour, the total value of the donated service for these IOLA cases was over \$67 million, and the total number of IOLA cases closed by volunteer attorneys was nearly 18,000. Even with these efforts, *pro bono* attorneys closed only 7 percent of all IOLA cases closed, signifying that even with substantially greater *pro bono* support, the gap is much too large to be successfully addressed in this manner.⁹⁵

Private lawyers cannot fill the gap in services as the sheer numbers of needy and unrepresented litigants overwhelm the capacity of volunteer lawyers.⁹⁶ In New York City, for example, the number of consumer debt filings in Civil Court hovered around 300,000 for several years, exceeding the number of actions filed in Housing Court. In both these courts, the vast majority of tenants and debtor-defendants are unrepresented as there are not enough legal services or *pro bono* attorneys to take their cases.⁹⁷

As Sam Seymour, President of the New York City Bar Association, testified regarding available *pro bono* help, “[i]t is finite. I’m very proud of the record of the New York Bar and there will be more to

come, but the solution is going to have to come from other sources of funding. This cannot be solved purely by volunteer work.”⁹⁸

Pursuant to the extensive testimony at the Chief Judge’s hearings, what is clearly needed is a diverse, well-trained and seasoned civil legal services staff that has the specialized knowledge to provide civil legal assistance to low-income New Yorkers in the priority areas of need and the ability to provide comprehensive services to clients with multiple, inter-related legal problems.

III. THE TASK FORCE'S RECOMMENDATIONS FOR ACTION

Based on all of the evidence, the Task Force concludes that significant action is required to bridge the gap between the need for civil legal assistance and available civil legal services for low-income New Yorkers in every part of the State — urban, suburban, and rural.

A permanent, stable and reliable source of State funding is needed to bridge this gap so that vulnerable New Yorkers can receive the legal help that they need in fundamental matters involving the “essentials of life” — a roof over one’s head, family stability, and personal safety free from domestic violence, access to health care and education, or subsistence income and benefits.

The Task Force understands the fiscal realities and the budgetary constraints under which the State is currently operating. However, the evidence before the Task Force shows that the increasing number of unrepresented low-income New Yorkers adversely affects the economic bottom line for represented parties when cases are delayed and not resolved in an acceptable manner to both the represented and unrepresented parties. The increasing number of unrepresented New Yorkers is also having a significant adverse impact on the efficiency and effectiveness of court operations.

Moreover, clear evidence establishes that the provision of civil legal services recaptures federal dollars for New Yorkers in the form of direct federal benefit payments to clients, saves State and local governments tax expenditures by, for example, preventing evictions and homelessness, and stimulates the local economy through the expenditure of the direct federal benefits to clients.

The Task Force also recognizes the extraordinary *pro bono* efforts by the private bar in New York State. Conservative estimates have calculated that the private bar in this State contributes more than 2 million hours to *pro bono* work. However, clear evidence establishes that even expanded *pro bono* assistance cannot bridge the gap in the need for civil legal services.⁹⁹

Accordingly, the Task Force sets out below recommendations for: (1) a four-year plan to allocate additional resources for civil legal services within the Judiciary’s budget; (2) the priorities for the provision of civil legal services with these funds; (3) the mechanism to allocate this additional civil legal services funding; (4) accountability in the use of these funds; and (5) additional reforms that the Task Force will address going forward.

The Task Force’s Finding on the Unmet Need for Civil Legal Assistance: The Chief Judge charged the Task Force with assessing and evaluating the extent of the unmet need for civil legal assistance for low-income New Yorkers throughout the State. Based on the data gathered by the Task Force and the evidence presented at all four of the Chief Judge’s hearings, the Task Force finds that there is a widening gap between the need for civil legal assistance and available civil legal services for low-income New Yorkers in all areas of the State.

In order to assess the unmet need, the Task Force evaluated new Office of Court Administration data which documents that more than 2.3 million New Yorkers are unrepresented in civil legal proceedings

in New York State courts. Most of those litigants are unrepresented not by choice and most are low-income New Yorkers. On its face, this court data represents an undercount, because it does not include the more than 1,250 Town and Village Courts. In addition to the court data, the Task Force's survey of the direct observations of front-line Judges as well as the testimony of Judges at the Chief Judge's hearings found that the number of unrepresented New Yorkers is growing. While testimony from business leaders, Judges, local government officials, and community leaders established that providing preventive legal assistance could reduce significantly the number of cases filed in court, it is clear that the large number of unrepresented New Yorkers presents a picture of a substantial unmet need for civil legal assistance for low-income New Yorkers as a result of the providers' lack of resources.

The Task Force also evaluated the overall potential unmet civil legal need in the State revealed by the Task Force's legal needs study. The Task Force's legal needs study found that nearly 3 million low-income New Yorkers experienced a civil legal problem, and 1.2 million experienced three or more civil legal problems. The Task Force recommends that the focus on the unmet need should be on the highest priority clients with multiple legal matters instead of trying to meet every single unmet legal need.

Even then, comparing the 1.2 million New Yorkers with three or more civil legal problems based on the legal needs study data with the 260,000 legal matters — both court cases and matters not involving litigation — handled annually by IOLA-funded civil legal services providers indicates that these programs are at best meeting approximately 20 percent of the potential need at their current funding level.¹⁰⁰ This conclusion that at best 20 percent of this overall need is being met is consistent with the seminal 1994 ABA legal needs study which found that only 20 percent of the civil legal need was being met and with other State surveys of unmet civil legal needs.¹⁰¹ However, this 20 percent figure is conservative in comparison to data from The Legal Aid Society in New York City showing that after the economic downturn the Society — because of lack of funding — can only provide legal assistance to one out of every nine eligible low-income New Yorkers who seek civil legal assistance.¹⁰²

For all of these reasons, the Task Force concludes that at best 20 percent of the overall need for civil legal assistance for low-income families and individuals across the State is being met at current funding levels.

The Task Force's Recommendation for Additional Resources: The Task Force's finding that at best 20 percent of the civil legal needs of low-income New Yorkers is being met across the State would lead to a recommendation to increase five-fold the total \$208 million current funding level for New York civil legal services providers. This existing funding consists of a patchwork of federal, State, local, and private grants and contributions. The Task Force understands that such a five-fold increase in the current funding level is simply not realistic or viable in these times.

The Task Force also concludes that its recommendation as to the necessary funding allocation to address the unmet need for civil legal assistance should take into consideration its other recommendations to emphasize preventive measures to avert legal problems from ending up in court (thereby reducing the growing number of unrepresented litigants), to prioritize matters involving the "essentials of life," and

to focus on enhancing the efficiency and effectiveness of the delivery of civil legal assistance and developing legal system reforms. When fully implemented, these recommendations may reduce the amount of funding needed to bridge the justice gap. Likewise, as the economy improves from the current severe economic downturn, the funding level necessary to bridge the gap between need and available civil legal assistance may also be reduced.

Taking into account the potential impact of these other recommendations and the current fiscal situation, the Task Force considered other available information to formulate a plan to begin to address its finding of the substantial unmet need for civil legal assistance for low-income New Yorkers. The Task Force concludes that the most conservative available information to formulate a recommendation for additional resources is the number of eligible persons who contact legal services providers for help and then are turned away because of lack of resources in comparison to those who receive civil legal assistance. The federal Legal Services Corporation (LSC) relies on such turn-away data to assess unmet civil legal needs nationally, because the data is more concrete and reliable than estimates of overall potential legal needs. In 2009, IOLA collected such turn-away data from providers that revealed a Statewide average of one eligible low-income New Yorker turned away for every one who could be helped. However, in the Task Force's recent survey of providers across the State, more than half of the responses reported that the number of low-income New Yorkers seeking help who could not receive assistance has increased since January 2010. Like LSC, the Task Force believes that using turn-away data necessarily results in an undercount, because it will miss those New Yorkers who are unable to or do not know that they can seek help from a civil legal services provider.

Despite these clear limitations of using the 2009 IOLA turn-away data to make a funding recommendation, the Task Force concludes that this conservative one-to-one turn-away data at least provides a fiscally responsible starting point to begin to bridge the substantial gap in need and available resources in these challenging economic times. The Task Force also intends to continue to monitor turn-away data and make further recommendations if they are required.

Accordingly, as a first step, the Task Force recommends a plan to start to reduce this conservatively calculated one-to-one access to justice funding gap with a goal of reducing that gap by at least half at the end of four years and beginning to address the Task Force's finding that at best 20 percent of the civil legal needs of low-income New Yorkers with multiple legal problems are being met.

Considering the current fiscal realities, the Task Force therefore recommends a four-year plan to increase by half the current overall \$208 million funding level that consists of an unstable combination of federal, State, local, and private awards and contributions. To accomplish this goal, the Task Force recommends allocating \$25 million in new civil legal services funding in the Judiciary's April 1, 2011 — March 31, 2012 budget and then increasing that allocation each year so that it reaches an annual allocation of \$100 million in permanent, stable civil legal services funding in the fourth year. This new funding is intended to be in addition to current funding for civil legal assistance in New York State.

While this recommendation will not enable New York to address fully the unmet civil legal needs for

all low-income New Yorkers, it will enable the State to take a significant step toward reducing the unmet civil legal needs of low-income New Yorkers with legal problems involving the “essentials of life.” At the same time, consistent with the Task Force’s findings in this Report, this additional investment in civil legal assistance will have a positive economic impact through additional federal benefits brought into the State’s economy and additional cost savings for State and local governments resulting from the preventive aspects of providing civil legal services.

These recommended funds are in addition to the Judiciary’s continuing \$15 million rescue funding for IOLA in order to address in part the loss in IOLA revenue due to the drop in interest rates.

Priorities for the Provision of Civil Legal Services With These Additional Resources: The Task Force agrees with the Chief Judge that the most urgent need is to provide additional civil legal assistance in matters involving what he has described as “the essentials of life.”

Evidence presented before the Task Force establishes that these highest priority “essentials of life” matters most often involve legal problems in the areas of housing (including evictions, foreclosures, and homelessness), family matters (including domestic violence, children, and family stability), access to health care and education, and subsistence income (including wages, disability and other benefits, and consumer debts). It is also clear that such matters are often interrelated with other legal problems that must be addressed in order to remedy the presenting legal issue.

Similarly, the evidence shows that the old adage “an ounce of prevention is worth a pound of cure” certainly applies to civil legal services. Both Judges and business leaders continually emphasized that early intervention by legal services providers can keep cases out of court and avert protracted litigation — which will have a beneficial effect on judicial resources, represented parties (both private and governmental), and low-income New Yorkers. As the Chief Judge himself observed at the hearings, the common perception that every civil matter needs “Perry Mason” in court is simply not the case, because the early provision of civil legal assistance can prevent legal problems from mushrooming into court cases, thereby conserving scarce resources.¹⁰³

Therefore, the provision of preventive and early intervention legal assistance, including expanded community legal education initiatives, should be emphasized as part of the array of client services that are needed. This emphasis on prevention and early intervention can have a beneficial effect on reducing the need for civil legal assistance and thereby limit the additional funding that will be necessary to bridge the access to justice gap.

The Task Force also finds that the most vulnerable New Yorkers in need of civil legal aid include both those living below the federal poverty level (\$22,050 for a family of four) and those living below 200 percent of the federal poverty level (\$44,100 for a family of four). Therefore, priority for legal assistance for civil legal help with these additional resources should be given to those living in poverty as defined by the federal government and the “working poor” living just above the poverty level but below 200 percent of that level. Many providers across the State already prioritize clients within these low-income levels and they should continue to do so.

The Chief Judge’s hearings also established that well-trained and seasoned experts are needed to untangle the complex legal problems that low-income clients frequently face. Accordingly, the civil legal assistance provided with these new funds should be delivered by providers that have staff with the requisite training, knowledge and experience to resolve client problems in the most effective and efficient manner.

The Mechanism To Allocate The Additional Resources: In order to ensure that the additional resources can be allocated quickly to help additional low-income New Yorkers effective April 1, 2011, the Task Force concludes that the best available mechanism to do so for this first year is to use the IOLA Fund’s grant-making process. Therefore, there will be no need for new administrative expenses or start-up time to implement this additional funding immediately in this first year of the four-year plan. As the plan proceeds, the Task Force will evaluate whether this particular IOLA mechanism should continue to be used.

The Task Force recommends the establishment of an Oversight Board to oversee the issuance of the requests for proposal and the decision-making process for the allocation of this additional funding targeted for the provision of civil legal assistance to address matters involving the “essentials of life” across the State. The Task Force also recommends that the Oversight Board take into account in the decision-making process the accountability issues discussed below. This Board should consist of the Chief Administrative Judge of the Courts (or other designee of the Chief Judge), the Chair of the Chief Judge’s Task Force, and the Chair of the IOLA Board.

Consistent with all of the evidence before it, the Task Force recommends that these additional funds should be allocated throughout the State — in urban, suburban, and rural areas — in accordance with a poor persons distribution similar to that which LSC uses.

Accountability: At the same time as the Task Force is recommending this additional funding to address the civil legal assistance justice gap across the State, the Task Force is also recommending that the delivery of client services must be accountable, effective, and efficient.

As referenced above, preventive services and early intervention are key priorities. Accordingly, providers must emphasize these in order to ensure the most effective and efficient delivery of client services.

Other areas that should be emphasized for providers include the enhanced use of technology, the expanded provision of “know your rights” community legal education, the increased use of supervised non-lawyer advocates, and partnerships and collaborations with non-legal entities that provide services to clients, including social services agencies, medical providers, schools, and community-based organizations. The Task Force will also continue to emphasize the leveraging of resources through *pro bono* efforts. All of these approaches are methods of ensuring the effective and efficient delivery of client services.

As the additional funding is provided, the Task Force will also evaluate the need to maximize collaboration among providers to avoid duplication of effort and minimize costs, including initiatives to share costs.

For this new funding, the Task Force concludes that additional mechanisms to evaluate the cost-effectiveness of client services and civil legal services delivery systems should be developed. The Task Force will work with the Oversight Board during this first year of the plan to implement such an additional evaluation process.

Additional Reforms To Be Addressed: The Task Force will continue to work with the Chief Judge to prepare for the annual hearings that he plans to hold in each Judicial Department and collect evidence on unmet civil legal needs. Accordingly, through this continuing collection of annual data, the Task Force will be in a position to make recommendations for modifications or adjustments in this plan as the plan proceeds.

Over the course of the next year, the Task Force will propose additional reforms to help improve the efficiency and effectiveness of the delivery of legal services and issue guidelines or best practices for the most effective delivery of civil legal assistance. The Task Force will continue to look at the delivery system for civil legal services in New York State and make recommendations to address the need for additional efficiencies as the plan is implemented. In the Task Force’s review and consideration of the overall civil legal services delivery system in New York, the ABA principles for the delivery of civil legal services can provide guidance.¹⁰⁴

The Task Force will also explore opportunities for the increased use of mediation, alternative dispute resolution initiatives and the simplification of the legal process for the benefit all litigants, including low-income New Yorkers, and the judicial system as a whole. Simplification of forms and procedures, particularly in family law, consumer credit, landlord-tenant and foreclosure matters, in combination with increased community legal education by providers may reduce the number of low-income New Yorkers who seek legal assistance from the providers, thereby achieving better outcomes for New Yorkers and further controlling costs. Such simplification is necessary to enhance the effectiveness of brief advice in resolving legal problems when it may be possible to do so without full representation.

Finally, in making these recommendations in these difficult budgetary times, the Task Force has carefully considered all of the testimony and other evidence presented orally and in writing from a broad array of witnesses from all four Judicial Departments of the State who all supported the provision of additional resources to provide civil legal assistance to low-income New Yorkers in matters involving the “essentials of life” — business leaders, private and public residential property owners, bankers, local government officials, District Attorneys, labor leaders, medical providers, educators, providers of domestic violence prevention services, religious leaders, Judges, and clients.

Kathryn Wylde, the President and CEO of the Partnership for New York City, summed up the testimony of witnesses across the State when she concluded:

[T]here’s understanding among business leadership, certainly, that if the system breaks down for some, it is liable to break down for all. . . . Obviously, the costs to society are reflected in dollar expenses that if we don’t pay for adequate representation that solves problems, we’re going to pay for the consequences that the problems will create . . . so we will pay one way or the other. . . . [W]hen

it reaches a point where the courts are overwhelmed and where the sense of justice for all disappears, then we have a real troubling situation that will affect our economy and will affect business decisions.¹⁰⁵

While the social costs of the lack of civil legal assistance for low-income New Yorkers in essential matters are difficult to measure precisely, a clogged, inaccessible system of justice necessarily results in arbitrary outcomes, often accompanied by human tragedy, and breeds contempt for the rule of law.

However, the testimony provided at the hearings and other evidence that the Task Force reviewed demonstrate that funding for civil legal assistance is an investment that provides significant benefits in the form of direct federal assistance brought into the New York economy and cost savings for State and local governments as well as cost savings and efficiencies for businesses and the courts. Of course, no price can be placed on the benefit of providing access to justice for vulnerable low-income New Yorkers struggling to maintain and obtain the “essentials of life” for their families and for themselves.

The Task Force does not suggest that the recommendations in this report are exhaustive with respect to moving closer to the goal of equal access to justice for low-income New Yorkers with essential civil legal problems. The Task Force stands ready in the coming year to continue to work with the Chief Judge to carry out the broad charge that he has given the Task Force to make further recommendations concerning the provision of effective and efficient civil legal assistance to low-income families and individuals across the State in matters involving the “essentials of life” so that we as a State can make measurable progress toward that goal of equal access to justice.

ENDNOTES

- ¹ The full text of the Chief Judge's Law Day speech is made a part of this report as Appendix 1.
- ² U.S. Census Bureau, Current Population Survey, Annual Social and Economic Supplement POV46: Poverty Status by State 2009 (2010), available at http://www.census.gov/hhes/www/cpstables/032010/pov/new46_185200_01.htm.
- ³ A list of the members of the Chief Judge's Task Force to Expand Access to Civil Legal Services is set forth at the beginning of this report. In addition, the Task Force received extensive assistance from Marcia Levy, Special Counsel for Pro Bono and Director of Professional Development at Sullivan & Cromwell LLP, who served as Counsel to the Task Force and Mary C. Mone, Counsel to the Chief Judge. Sullivan & Cromwell LLP, which has a partner serving on the Task Force, hosted the Task Force and provided crucial *pro bono* assistance. Three other leading law firms with partners who serve on the Task Force also provided invaluable *pro bono* assistance: Proskauer Rose LLP; Simpson Thacher & Bartlett LLP; and Skadden, Arps, Slate, Meagher & Flom LLP. A full listing of those who provided *pro bono* assistance is annexed as Appendix 2.
- ⁴ Other initiatives of the Chief Judge to expand access to civil legal services are meant to complement the work of the Task Force. For example, the Chief Judge established an Attorney Emeritus program to tap into an underutilized segment of the legal community – retired lawyers. While no substitute for expanding staff model civil legal services programs, effective at the beginning of this year under amended attorney registration rules, qualified attorneys who previously would have retired can now practice law on a *pro bono* basis without payment of the attorney registration fee if they commit to at least 30 hours a year of legal services to low-income clients. In October 2010, the Chief Judge extended the program to cover attorneys who are 55 or older, have been practicing for at least 10 years, and are not retired; their registration fee and CLE requirements are not waived, but they are able to participate in the program and volunteer for a qualified provider. The program is overseen by the Attorney Emeritus Advisory Council that is co-chaired by John D. Feerick, the former Dean of Fordham Law School, and Fern A. Schair, Chair of the Feerick Center for Social Justice at Fordham.
- ⁵ The full text of the joint legislative resolution is annexed as Appendix 3.
- ⁶ A witness list for each of the Chief Judge's four hearings is annexed as Appendix 4. The transcripts of the oral testimony at the four hearings are annexed as Appendix 5 (for the First Department Hearing held on September 28, 2010), Appendix 6 (for the Fourth Department Hearing held on September 29, 2010), Appendix 7 (for the Third Department Hearing held on October 5, 2010), and Appendix 8 (for the Second Department hearing held on October 7, 2010). Written statements submitted at the four hearings are annexed as Appendix 9 (for the First Department Hearing), Appendix 10 (for the Fourth Department Hearing), Appendix 11 (for the Third Department Hearing), and Appendix 12 (for the Second Department hearing).
- ⁷ Copies of the public notice posted on the Unified Court System's website and published in the *New York Law Journal* are annexed as Appendix 13 and Appendix 14, respectively.
- ⁸ *The Chief Judge's Hearing on Civil Legal Services, Second Dep't, Oct. 7, 2010 (remarks of Chief Judge Jonathan Lippman at 4:3-7, 5:5-20).*
- ⁹ Copies of the notification of the providers' survey and the survey findings are annexed as Appendix 15 and Appendix 16, respectively.
- ¹⁰ See generally United States Department of Commerce, *Regional Multipliers: A User Handbook for the Regional Input-Output Modeling System (RIMS II)*, (3d ed. 1997), available at <http://www.bea.gov/scb/pdf/regional/perinc/meth/rims2.pdf> (New York State calculations provided by the IOLA Fund of the State of New York).
- ¹¹ *The Chief Judge's Hearing on Civil Legal Services, Third Dep't, Oct. 5, 2010 (testimony of Hon. Michael C. Conway, Nassau Town Court, Nassau Village Court, Rensselaer County, at 80:5-14).*
- ¹² *The Chief Judge's Hearing on Civil Legal Services, Fourth Dep't, Sept. 29, 2010 (testimony of Hon. Henry J. Nowak, Buffalo Housing Court Judge, at 91:11-92:22).*
- ¹³ *The Chief Judge's Hearing on Civil Legal Services, Second Dep't, Oct. 7, 2010 (testimony of Hon. Eleanora Ofshstein, Kings County Housing Court Judge, at 106:21-23).*

- ¹⁴ *The Chief Judge's Hearing on Civil Legal Services, Second Dep't, Oct. 7, 2010 (testimony of Hon. Fern Fisher, Deputy Chief Administrative Judge for New York City Courts and Director of the New York State Courts Access Justice Program, at 114:15-20).*
- ¹⁵ *The Chief Judge's Hearing on Civil Legal Services, Second Dep't, Oct. 7, 2010 (statement of Hon. Fern Fisher, Deputy Chief Administrative Judge for New York City Courts and Director of the New York State Courts Access Justice Program, at 1).*
- ¹⁶ *Id. at 1-2.*
- ¹⁷ *Id. at 4.*
- ¹⁸ *The Chief Judge's Hearing on Civil Legal Services, Second Dep't, Oct. 7, 2010 (testimony of Hon. Fern Fisher, Deputy Chief Administrative Judge for New York City Courts and Director of the New York State Courts Access Justice Program, at 115:13-14).*
- ¹⁹ *Id. at 117:6-9.*
- ²⁰ *The Chief Judge's Hearing on Civil Legal Services, Second Dep't, Oct. 7, 2010 (statement of Hon. Fern Fisher, Deputy Chief Administrative Judge for New York City Courts and Director of the New York State Courts Access Justice Program, at fn 5).*
- ²¹ *The Chief Judge's Hearing on Civil Legal Services, First Dep't, Sept. 28, 2010 (statement of Hon. Jeffrey K. Oing, Supervising Judge, New York County Civil Court, at 2).*
- ²² *The Chief Judge's Hearing on Civil Legal Services, First Dep't, Sept. 28, 2010 (testimony of Hon. Jeffrey K. Oing, Supervising Judge, New York County Civil Court, at 123:23-124:7).*
- ²³ *The Chief Judge's Hearing on Civil Legal Services, Second Dep't, Oct. 7, 2010 (testimony of Hon. Fern Fisher, Deputy Chief Administrative Judge for New York City Courts and Director of the New York State Courts Access Justice Program, at 115:18-19).*
- ²⁴ The problem of unrepresented litigants in Family Court is a Statewide problem. The Hon. Judith F. O'Shea testified that the Chemung County Supreme Court experienced a drastic increase in both the quantity and percentage of unrepresented litigants, much of which is attributable to the economic recession; foreclosure, credit card debt, divorce, and domestic violence cases have all increased in numbers, and *pro bono* work is no longer enough. *The Chief Judge's Hearing on Civil Legal Services, Third Dep't, Oct. 5, 2010 (statement of Hon. Judith F. O'Shea, Chemung County Supreme Court).* Similarly, the Hon. Kathie E. Davidson, Supervising Judge, Family Court, 9th Judicial District, explained that caseloads in each of the five counties in the 9th Judicial District have increased exponentially, in particular in Dutchess County (where filings increased from 8,608 in 1990 to 16,198 in 2009) and Westchester County (where filings increased from 21,872 in 1990 to 34,006 in 2009). *The Chief Judge's Hearing on Civil Legal Services, Second Dep't, Oct. 7, 2010 (statement of Hon. Kathie E. Davidson, Supervising Judge, Family Court, 9th Judicial District, at 1-2).* The Hon. Helena Heath-Roland, Albany City Court, also testified that Judges and clerks have to spend increasing amounts of time explaining calendar calls, proceedings, effects of warrants, legal documents, and applications to litigants without counsel, which has further backed up an already busy Albany City court docket. *The Chief Judge's Hearing on Civil Legal Services, Third Dep't, Oct. 5, 2010 (testimony of Hon. Helena Heath-Roland, Albany City Court, at 91:17-92:14).*
- ²⁵ *The Chief Judge's Hearing on Civil Legal Services, Second Dep't, Oct. 7, 2010 (testimony of Hon. Fern Fisher, Deputy Chief Administrative Judge for New York City Courts and Director of the New York State Courts Access Justice Program, at 117:1-3).*
- ²⁶ *The Chief Judge's Hearing on Civil Legal Services, Second Dep't, Oct. 7, 2010 (statement of Hon. Fern Fisher, Deputy Chief Administrative Judge for New York City Courts and Director of the New York State Courts Access Justice Program, at 7).*
- ²⁷ *The Chief Judge's Hearing on Civil Legal Services, Fourth Dep't, Sept. 29, 2010 (testimony of Hon. Joseph G. Nesser, Monroe County Family Court, September 29, 2010, at 99:15-19).*
- ²⁸ *The Chief Judge's Hearing on Civil Legal Services, Second Dep't, Oct. 7, 2010 (statement of Hon. Kathie E. Davidson, Supervising Judge, Family Court, 9th Judicial District, at 4).*
- ²⁹ *The Chief Judge's Hearing on Civil Legal Services, Second Dep't, Oct. 7, 2010 (testimony of Hon. Fern Fisher, Deputy Chief Administrative Judge for New York City Courts and Director of the New York State Courts Access Justice Program, at 117:17-19).*
- ³⁰ *The Chief Judge's Hearing on Civil Legal Services, First Dep't, Sept. 28, 2010 (statement of Hon. Ruben A. Martino, Presiding Judge, Harlem Community Justice Center, at 2).*

- ³¹ *The Chief Judge's Hearing on Civil Legal Services, Second Dep't, Oct. 7, 2010 (testimony of Hon. Norman St. George, Acting Supreme Court Justice, Nassau County Court, at 108:15-18).*
- ³² *The Chief Judge's Hearing on Civil Legal Services, Second Dep't, Oct. 7, 2010 (statement of Hon. Norman St. George, Acting Supreme Court Justice, Nassau County Court, at 2-3).*
- ³³ *The Chief Judge's Hearing on Civil Legal Services, Second Dep't, Oct. 7, 2010 (statement of Hon. Fern Fisher, Deputy Chief Administrative Judge for New York City Courts and Director of the New York State Courts Access Justice Program, at 2).*
- ³⁴ *Id.* at 3.
- ³⁵ *The Chief Judge's Hearing on Civil Legal Services, First Dep't, Sept. 28, 2010 (testimony of Hon. Ruben A. Martino, Presiding Judge, Harlem Community Justice Center, at 143:2-227-17).* While nationally, the role of a judge in an unrepresented litigant case is slowly evolving to be a neutral but engaged figure, neutrality is central to judging. *The Chief Judge's Hearing on Civil Legal Services, Second Dep't, Oct. 7, 2010 (testimony of Hon. Fern Fisher, Deputy Chief Administrative Judge for New York City Courts and Director of the New York State Courts Access Justice Program, at 118:21-24);* see also *The Chief Judge's Hearing on Civil Legal Services, First Dep't, Sept. 28, 2010 (testimony of Joseph Strasburg, President, Rent Stabilization Association, at 48:10-5013)* (stating that lack of representation in Housing Court has historically been seen by many landlords as resulting in the Judge taking on an advocate role for the tenant, leaving the impression that the landlords can't "get a fair shake").
- ³⁶ *The Chief Judge's Hearing on Civil Legal Services, Second Dep't, Oct. 7, 2010 (testimony of Hon. Fern Fisher, Deputy Chief Administrative Judge for New York City Courts and Director of the New York State Courts Access Justice Program, at 119:17-20).*
- ³⁷ *The Chief Judge's Hearing on Civil Legal Services, First Dep't, Sept. 28, 2010 (testimony of Joseph Strasburg, President, Rent Stabilization Association, at 43:7-44:14);* see also *id.*, at 46:22-25) (stating that landlords and tenants "are joined [at] the hip whether we like it or not" and any obstacle the tenants face in receiving benefits directly impacts whether landlords receive rent).
- ³⁸ *The Chief Judge's Hearing on Civil Legal Services, Third Dep't, Oct. 5, 2010 (testimony of Steven T. Longo, the Executive Director, Albany Housing Authority, at 55:5-6).*
- ³⁹ *Id.* at 56:19-57:2.
- ⁴⁰ *The Chief Judge's Hearing on Civil Legal Services, First Dep't, Sept. 28, 2010 (testimony of Michael Helfer, General Counsel, Citigroup at 27:20-28:8);* *The Chief Judge's Hearing on Civil Legal Services, First Dep't, Sept. 28, 2010 (statement of Michael S. Helfer, General Counsel, Citigroup, at 3).*
- ⁴¹ *Id.*
- ⁴² *The Chief Judge's Hearing on Civil Legal Services, First Dep't, Sept. 28, 2010 (testimony of Michael Helfer, General Counsel, Citigroup, at 33:14-23).*
- ⁴³ *Id.* at 29:10-30:1; but see *id.*, at 34:7-16.
- ⁴⁴ *The Chief Judge's Hearing on Civil Legal Services, First Dep't, Sept. 28, 2010 (testimony of Michael Helfer, General Counsel, Citigroup, at 30:16-31:4).*
- ⁴⁵ *The Chief Judge's Hearing on Civil Legal Services, First Dep't, Sept. 28, 2010 (statement of Michael S. Helfer, General Counsel, Citigroup, at 1).*
- ⁴⁶ *The Chief Judge's Hearing on Civil Legal Services, First Dep't, Sept. 28, 2010 (statement of Michael Smith, President & CEO, New York Bankers Assoc., at 1).*
- ⁴⁷ See *The Chief Judge's Hearing on Civil Legal Services, First Dep't, Sept. 28, 2010 (testimony of Hon. Jaya K. Madhavan, Supervising Judge, Bronx Housing Court, at 136:24-137:8)* ("if you look at what we have in Housing Court, you have two sides really who want the same thing; tenants who essentially want to pay the rent and landlords want the rent. It's just a question of how do you make that happen. And the real key to that is lawyers on both sides. Because as you just saw with the Housing Help Program, the cases where there were lawyers on both sides, the outcomes were not successful just for one side but for both sides, because both sides ended up getting what they ultimately wanted in the first place.").

- ⁴⁸ *The Chief Judge's Hearing on Civil Legal Services, Fourth Dep't, Sept. 29, 2010 (statement of Thomas Richards, Corporation Counsel, City of Rochester (former CEO of Rochester Gas & Electric at 2).*
- ⁴⁹ *The Chief Judge's Hearing on Civil Legal Services, First Dep't, Sept. 28, 2010 (statement of Kathryn Wylde, President & CEO, Partnership for New York City, at 2).* In a similar vein, Kenneth Raske, the President of the Greater New York Hospital Association, highlighted the key role that the provision of legal assistance plays in maintaining the solvency of the health care delivery system for New Yorkers of all income levels by securing wrongfully denied private and public health insurance coverage for patients which is so critical to the functioning of hospitals and other medical providers – assistance that will be even more crucial when health care reform is implemented. *The Chief Judge's Hearing on Civil Legal Services, First Dep't, Sept. 28, 2010 (testimony of Ken Raske, President, Greater New York Hospital Association, at 50:22-51:12, 52:3-53:5, 56:10-15).*
- ⁵⁰ *See note 10, supra.*
- ⁵¹ *The Chief Judge's Hearing on Civil Legal Services, Third Dep't, Oct. 5, 2010 (testimony of Michael Breslin, Albany County Executive, at 9:13-17, 11:8-16); The Chief Judge's Hearing on Civil Legal Services, Second Dep't, Oct. 7, 2010 (testimony of Christine Malafi, Suffolk County Attorney, at 42:22-43:4).*
- ⁵² *See "Increasing Access to Restraining Orders for Low Income Victims of Domestic Violence: A Cost-Benefit Analysis of Proposed Domestic Abuse Grant Program," L. Elart, et al. (December 2006); see also The Chief Judge's Hearing on Civil Legal Services, Fourth Dep't, Sept. 29, 2010 (testimony of Catherine Cerulli, Associate Professor and Director of Laboratory of Interpersonal Violence and Victimization, Department of Psychiatry, University of Rochester, at 76:15-85:23); The Chief Judge's Hearing on Civil Legal Services, Second Dep't, Oct. 7, 2010 (statement of Sanctuary for Families Center for Battered Women's Legal Services).*
- ⁵³ American Bar Association Legal Needs Study, <http://www.abanet.org/legalservices/downloads/sclaid/legalneedstudy.pdf>; *see also The Chief Judge's Hearing on Civil Legal Services, First Dep't, Sept. 28, 2010 (statement of Hon. Christine C. Quinn, Speaker, New York City Council, at 1)* ("Studies have found that no more than 20 percent of the legal needs of low income families and individuals are being met. This means that individuals have no lawyer to represent them on matrimonial matters, in housing court, when seeking unemployment benefits or when in immigration court. The Council has allocated as much funding as possible over the years from its own initiative funding. We cannot satisfy the tremendous need for legal assistance though through the City's legislative initiative funding – funding that we have had to cut at the same time that the need is increasing.").
- ⁵⁴ *See The Chief Judge's Hearing on Civil Legal Services, Second Dep't, Oct. 7, 2010 (testimony of Victor Kovner, Chair, Fund for Modern Courts, at 12:07-16:09).*
- ⁵⁵ The list of legal problems was reviewed by a Task Force subcommittee to make sure that the questions actually involved legal matters.
- ⁵⁶ The findings of Lake Research Partners are annexed as Appendix 17.
- ⁵⁷ *See note 2, supra.*
- ⁵⁸ This chart is based on the Federal Poverty Guidelines for 2010 which can be found at the U.S. Department of Health and Human Services website, <http://aspe.hhs.gov/poverty/10poverty.shtml>.
- ⁵⁹ *See Appendix 17.*
- ⁶⁰ Testimony at the Chief Judge's hearings also highlighted the difficulty of retaining experienced staff with the necessary expertise under these circumstances, including salary freezes and health care cuts. *The Chief Judge's Hearing on Civil Legal Services, First Dep't, Sept. 28, 2010 (testimony of Julie Kushner, Director UAW Region 9A, at 81:9-15); The Chief Judge's Hearing on Civil Legal Services, Fourth Dep't, Sept. 29, 2010 (testimony of C. Kenneth Perri, Executive Director, Legal Assistance of Western New York, at 132:2-133:19).*
- ⁶¹ *The Chief Judge's Hearing on Civil Legal Services, Second Dep't, Oct. 7, 2010 (testimony of Alvin Thomas, client of Legal Services of the Hudson Valley, at 71:3-8, 76:4-7).*
- ⁶² *The Chief Judge's Hearing on Civil Legal Services, First Dep't, Sept. 28, 2010 (testimony of John Brown, client of Legal Services NYC Bankruptcy Assistance Project, at 111:20 – 22; 113:26-114:3).*

- ⁶³ *The Chief Judge's Hearing on Civil Legal Services, First Dep't, Sept. 28, 2010 (testimony of Juliet D'Souza, client of the Legal Aid Society in New York City, at 110:2-26).*
- ⁶⁴ *Id.*, at 109:14-16).
- ⁶⁵ *The Chief Judge's Hearing on Civil Legal Services, First Dep't, Sept. 28, 2010 (testimony of Yulia Abayeva, Client of New York Legal Assistance Group, at 118:11-120:13).*
- ⁶⁶ *Id.*, at 117:3-4).
- ⁶⁷ *The Chief Judge's Hearing on Civil Legal Services, Second Dep't, Oct. 7, 2010 (testimony of William Schneider, client of Nassau/Suffolk Legal Services, at 86:20-21).*
- ⁶⁸ *The Chief Judge's Hearing on Civil Legal Services, Third Dep't, Oct. 5, 2010 (testimony of Lauren E. Raffe, client of Children's Law Project in Legal Aid, at 136:11-21).*
- ⁶⁹ *The Chief Judge's Hearing on Civil Legal Services, Third Dep't, Oct. 5, 2010 (statement of Christopher Layo, Client of Legal Services, at 2).*
- ⁷⁰ *The Chief Judge's Hearing on Civil Legal Services, Second Dep't, Oct. 7, 2010 (testimony of Chakiera Locust, client of Legal Aid Society of Rockland County, at 91:11-14).*
- ⁷¹ *The Chief Judge's Hearing on Civil Legal Services, Second Dep't, Oct. 7, 2010 (testimony of Gail Greene, client of the Legal Aid Society in New York York, at 93:19-21).*
- ⁷² *The Chief Judge's Hearing on Civil Legal Services, Third Dep't, Oct. 5, 2010 (testimony of Dorothea Medina, client of the Legal Project, at 142:8-11).*
- ⁷³ *The Chief Judge's Hearing on Civil Legal Services, Fourth Dep't, Sept. 29, 2010 (testimony of Jean Claude Brizard, Superintendent of the Rochester School District, at 46:11-13, 47:21-22).*
- ⁷⁴ *The Chief Judge's Hearing on Civil Legal Services, Third Dep't, Oct. 5, 2010 (testimony of Patricia Bentley, Board of Directors, New York State United Teachers, at 43:16-44:16).*
- ⁷⁵ *The Chief Judge's Hearing on Civil Legal Services, Fourth Dep't, Sept. 29 2010 (statement of Rachael Gazdick, Executive Director, Say Yes to Education, at 2); see also The Chief Judge's Hearing on Civil Legal Services, Fourth Dep't, Sept. 29, 2010 (testimony of Dr. Anne M. Kress, President, Monroe County Community College, at 54:14-19) ("The fact is, too often, the students whose futures can be most improved by access to higher education at Monroe Community College and community colleges across this State, lose this opportunity because they cannot access consistent and quality legal services.").*
- ⁷⁶ *The Chief Judge's Hearing on Civil Legal Services, Second Dep't, Oct. 7, 2010 (testimony of Hon. Charles Hynes, District Attorney, Kings County, at 52:3-6).*
- ⁷⁷ *The Chief Judge's Hearing on Civil Legal Services, Third Dep't, Oct. 5, 2010 (testimony of Kathleen B. Hogan, District Attorney of Warren County, at 22:22-23:06).*
- ⁷⁸ *Id.* at 19:22-20:2.
- ⁷⁹ *The Chief Judge's Hearing on Civil Legal Services, Second Dep't, Oct. 7, 2010 (testimony of Chief Mary Barbera, Rockland County Sheriff's Civil Enforcement Division, at 38:1-25, 41:4-22) ("And I remember walking away looking at that crib on the street and saying wow, you know, and I know they had no legal representation.").*
- ⁸⁰ *The Chief Judge's Hearing on Civil Legal Services, Third Dep't, Oct. 5, 2010 (testimony of Denis M. Hughes, President, New York State AFL-CIO, at 29:16-25).*
- ⁸¹ *The Chief Judge's Hearing on Civil Legal Services, Third Dep't, Oct. 5, 2010 (testimony of Denise Berkley, Secretary of the Civil Service Employees Association, at 26:12-27:24, 36:6-12).*

- ⁸² *The Chief Judge's Hearing on Civil Legal Services, First Dep't, Sept. 28, 2010 (testimony of Julie Kushner, Director UAW Region 9A, at 81:3-7, 84:7-11).*
- ⁸³ *The Chief Judge's Hearing on Civil Legal Services, Fourth Dep't, Sept. 28, 2010 (statement of Steven D. Blatt, MD, University Hospital at SUNY Upstate Medical University, at 2); see also The Chief Judge's Hearing on Civil Legal Services, Fourth Dep't, Sept. 28, 2010 (testimony of Steven D. Blatt, MD, University Hospital at SUNY Upstate Medical University, at 69:9-11) ("It's more than the absence of money. Poverty means a lack of education, living a disordered, chaotic life.").*
- ⁸⁴ *The Chief Judge's Hearing on Civil Legal Services, Fourth Dep't, Sept. 28, 2010 (testimony of Dr. Fran Weisberg, Executive Director, Finger Lakes Health Systems Agency, at 60:24-61:6).*
- ⁸⁵ *The Chief Judge's Hearing on Civil Legal Services, Second Dep't, Oct. 7, 2010 (statement of Lois Schwaeber, Director of Legal Services, Nassau County Coalition Against Domestic Violence, at 2).*
- ⁸⁶ *The Chief Judge's Hearing on Civil Legal Services, Third Dep't, Oct. 5, 2010 (testimony of Jeanne Noordsy, Domestic Violence Project of Warren & Washington Counties, at 119:12-14).*
- ⁸⁷ *The Chief Judge's Hearing on Civil Legal Services, Fourth Dep't, Sept. 29, 2010 (testimony of Dr. Catherine Cerulli, Department of Psychiatry, University of Rochester, at 83:1-9).*
- ⁸⁸ *The Chief Judge's Hearing on Civil Legal Services, First Dep't, Sept. 28, 2010 (testimony of David Jones, President and CEO, Community Service Society, at 76:12-77:11, 78:3-13).*
- ⁸⁹ *The Chief Judge's Hearing on Civil Legal Services, Third Dep't, Oct. 5, 2010 (statement of Susan Patnode, Executive Director, Rural Law Center, at 2).*
- ⁹⁰ *The Chief Judge's Hearing on Civil Legal Services, Third Dep't, Oct. 5, 2010 (testimony of Earl Eichelberger, Director, Catholic Charities, at 51:15-18).*
- ⁹¹ *The Chief Judge's Hearing on Civil Legal Services, Second Dep't, Oct. 7, 2010 (testimony of Rev. Terry Troia, Executive Director, Project Hospitality, Staten Island, at 27:1-14).*
- ⁹² *The Chief Judge's Hearing on Civil Legal Services, Second Dep't, Oct. 7, 2010 (testimony of Christine Malafi, Suffolk County Attorney, at 42:22-43:12).*
- ⁹³ The reduction in IOLA funding has been so dramatic that many organizations providing front-line civil legal help will not survive and even larger well-established organizations will be substantially diminished just when clients need their help the most. *The Chief Judge's Hearing on Civil Legal Services, First Dep't, Sept. 28, 2010 (testimony of Benito Romano, Chair, Interest on Lawyer Account Fund for the State of New York (IOLA), at 64:10-20, 70:8-14) ("We hope that the infrastructure will stay in place so we could patch together some funding that will keep them in business. But many of them will not survive. . . . This is not the only time in our history we've ridden this volatile roller coaster. It's happened once before and it is a terrible – you can imagine how difficult it is for our grantees to be planning, hiring, training, all the things that you need to run a public law office can't get done because of the volatility of the source of funding.").*
- ⁹⁴ *The Chief Judge's Hearing on Civil Legal Services, First Dep't, Sept. 28, 2010 (statement of Benito Romano, Chair of the Board of the IOLA Fund of the State of New York, at 5).*
- ⁹⁵ The Office of Court Administration itself has been extremely creative in developing volunteer programs like the Volunteer Lawyer for the Day and special Help Centers in some courts for unrepresented litigants. But these efforts are not enough to provide assistance to all the unrepresented litigants, let alone provide assistance to keep cases out of court to begin with or make sure that settled cases do not return to court dockets. *The Chief Judge's Hearing on Civil Legal Services, Second Dep't, Oct. 7, 2010 (statement of Hon. Fern Fisher, Deputy Chief Administrative Judge for New York City Courts and Director of the New York State Courts Access Justice Program, at 4).*
- ⁹⁶ *The Chief Judge's Hearing on Civil Legal Services, First Dep't, Sept. 28, 2010 (statement of James B. Kobak, President, New York County Lawyers Association, at 2).*
- ⁹⁷ *Id.*

⁹⁸ *The Chief Judge's Hearing on Civil Legal Services, First Dep't, Sept. 28, 2010 (testimony of Sam Seymour, President, New York City Bar Association, at 97:17-21).*

⁹⁹ As noted at note 4, *supra*, the Chief Judge has taken action to increase *pro bono* efforts by implementing the Attorney Emeritus program to encourage transitioning and retired lawyers to volunteer at civil legal services organizations.

¹⁰⁰ To the extent that some of these 260,000 matters may take in excess of one year to resolve and more than one matter may be handled for those who have multiple legal problems, an even smaller percentage of the need is currently being met.

¹⁰¹ Legal Services Corporation, *Documenting the Justice Gap in America, The Current Unmet Civil Needs of Low-Income Americans* 13-18 (Sept. 2009).

¹⁰² *The Chief Judge's Hearing on Civil Legal Services, First Dep't, Sept. 28, 2010 (statement of The Legal Aid Society).*

¹⁰³ *The Chief Judge's Hearing on Civil Legal Services, Third Dep't, Oct. 5, 2010 (remarks of Chief Judge Jonathan Lippman at 130:3-8); The Chief Judge's Hearing on Civil Legal Services, Second Dep't, Oct. 7, 2010 (remarks of Chief Judge Jonathan Lippman at 14:7-16).*

¹⁰⁴ See <http://www.abanet.org/legalservices/sclaid/downloads/civillegalaidstds2007.pdf>

¹⁰⁵ *The Chief Judge's Hearing on Civil Legal Services, First Dep't, Sept. 28, 2010 (testimony of Katherine Wylde, President & CEO, Partnership for New York City, at 23:25-24:23, 25:7-21)*

